

Appendix J
DHS Addendum to Standard Grant Terms and Conditions
with Audit Clause

**DEPARTMENT OF HUMAN SERVICES
ADDENDUM TO
STANDARD TERMS AND CONDITIONS**

A. APPLICABILITY

This Addendum supplements the Standard Terms and Conditions. Certain terms contained herein may not be applicable to all the services which may be provided through Department contracts or agreements.

B. CONFIDENTIALITY

The parties shall not use or disclose any information about a recipient of the services to be provided under this Agreement for any purpose not connected with the parties' contract responsibilities except with written consent of such recipient, recipient's attorney, or recipient's parent or legal guardian.

C. INFORMATION

During the period of the Contract, upon request, Contractor shall make immediately available to the Department all information obtained by Contractor through work on the Contract. If requested, the Contractor shall deliver to the Department background material prepared or obtained by Contractor incident to the performance of the Contract. Background material is defined as original work, papers, notes and drafts prepared by Contractor to support the data and conclusions in final reports, and includes completed questionnaires, materials in electronic data processing form, computer programs, other printed materials, pamphlets, maps, drawings and all data directly related to the services being rendered.

D. CERTIFICATION AND LICENSING

Contractor will have all licenses, certifications and permits from Federal, State and Local authorities permitting it to carry on its activities under the Contract.

E. PROGRAM SERVICES

Definitions of services, eligibility of recipients for service and other limitations in this Agreement are subject to modification by amendments to Federal, State and Local laws, regulations and program requirements without further notice Grantee.

F. PRO-CHILDREN ACT OF 1994

Contractor shall comply with the requirements of the Pro-Children Act of 1994; Part C-Environment Tobacco Smoke that requires that smoking not be permitted in any portion of an indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health care services, day care and education to children under the age of 18, if the services are funded by Federal programs whether directly or through State and Local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment.

G. MEDICARE/MEDICAID REIMBURSEMENT

1. To the extent that services are furnished by contractors, subcontractors, grantees, subgrantees or related organizations and services are in whole or in part claimed by the Commonwealth for Medicare or Medical Assistance reimbursement, Contractor shall comply with 42 C.F.R. Part 420, including:
 - a. Preservation of books, documents and records until the expiration of five years after the services are furnished under the Contract.
 - b. Full and free access to (i) the Commonwealth, (ii) the U.S. Inspector General, (iii) the U.S. Department of Health and Human Services, and their authorized representatives.

2. By submitting a Proposal, Contractor certifies under penalty of law that it has not been precluded from participation or terminated from any federally funded health care program and shall notify the Department immediately should a preclusion or termination occur.

H. PROPERTY AND SUPPLIES

1. Contractor shall obtain all supplies and equipment for use in the performance of the Contract at the lowest practicable cost and shall purchase by means of competitive bidding when required by law.
2. Title to property furnished in-kind by the Department shall remain the property of the Department.
3. Department property shall, unless otherwise approved in writing by the Department, be used only for the performance of the Contract.
4. If Contractor is indemnified, reimbursed or otherwise compensated for any loss, destruction or damage to Department Property, it shall use the proceeds to replace, repair or renovate the property involved, or shall credit such proceeds against the cost of the work covered by the Contract, or shall reimburse the Department, at the Department's direction.

I. COVENANT AGAINST CONTINGENT FEES

Contractor warrants that no person or agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee (excepting bona fide employees or bona fide established commercial or agencies maintained by Contractor for the purpose of securing business). For breach of this warranty, the Department shall have the right to void the Contract without liability or, in its discretion, to deduct from the consideration otherwise due, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

J. CONTRACTOR RESPONSIBILITY TO EMPLOY DHS CLIENTS

1. The Contractor's Contractor Partnership Program (CPP) submittal and RFA CPP requirements become part of the Agreement. Contractor shall submit any proposed changes to the Office of Income Maintenance CPP Division. If the Contract is assigned to another contractor, the new contractor must maintain the CPP requirements of the original Agreement.
2. Contractor shall, within 10 days of receiving the Effective Date of the Contract, register in the Commonwealth Workforce Development System (CWDS).
3. As specified in RFA, Contractor must submit Quarterly Employment Reports to the Office of Income Maintenance Central Office of Employment and Training – CPP Division. Contractor may not revise, alter, or re-create the Quarterly Employment Report form. On a quarterly basis, Contractor shall provide information on the use and outcomes of hiring strategies and demonstrating good faith efforts to hire TANF beneficiaries.
4. If Contractor is non-compliant, the CPP Division will contact the Contract Administrator to request corrective action.

K. AUDIT CLAUSE

This Agreement is subject to audit in accordance with the attached Audit Clause.

SUBRECIPIENT / CONTRACTOR AUDITS

AUDIT CLAUSE A/B – SUBRECIPIENT

The Commonwealth of Pennsylvania, Department of Human Services (DHS), distributes federal and state funds to local governments, non-profit, and for-profit organizations. Federal expenditures are subject to federal audit requirements, and federal and state funding passed through DHS are subject to DHS audit requirements. Any federal statute prescribing specific policies or specific requirements that differ from the standards provided herein shall govern. The DHS provides the following audit requirements in accordance with the Commonwealth of Pennsylvania, Governor’s Office, Management Directive 325.09, as amended January 10, 2022.

Subrecipient means a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards received directly from a federal awarding agency (see 2 CFR Part 200 § 200.93). For purposes of this audit clause, a subrecipient **is not** a contractor as defined in 2 CFR Part 200 § 200.23.

Subrecipients must comply with all federal audit requirements and any other applicable law or regulation, as well as any other applicable law or regulation that may be enacted or promulgated by the federal government.

A. Federal Audit Requirements

Federal Audit Requirements Specific to Local Governments and Nonprofit Organizations

If a local government or nonprofit organization expends federal awards of \$750,000 or more during its fiscal year, received either directly from the federal government, indirectly from a pass-through entity, or a combination of both, to carry out a federal program, it **is required** to have an audit conducted in accordance with the provisions outlined in 2 CFR Part 200.501, *Audit Requirements*.

Federal Audit Requirements Specific to For-Profit Organizations

A for-profit organization **is required** to have an audit if it expends a total of \$750,000 or more in federal funds under one or more Department of Health and Human Services (DHHS) federal awards. Title 45, CFR 75.501(i) incorporates the thresholds and deadlines of 2 CFR Part 200 as amended, and provides for-profit organizations with two options regarding the type of audit that will satisfy the audit requirements:

1. A financial audit conducted in accordance with generally accepted *Government Auditing Standards* (The Yellow Book), revised; or
2. An audit that meets the requirements contained in 2 CFR Part 200.

Federal Audit Requirements Applicable to Local Governments and Nonprofit Organizations, and to For-Profit Organizations

If a subrecipient expends **total federal awards of less than \$750,000** during its fiscal year, it is exempt from these **federal** audit requirements, but is required to maintain auditable records of federal or state funds that supplement such awards. Records must be available for review by appropriate officials. **Although an audit may not be necessary under the federal requirements, DHS audit requirements may be applicable.**

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B. DHS Audit Requirements

Subrecipients must meet the following DHS audit requirements:

Where a Single Audit or program-specific audit is conducted in accordance with the federal audit requirements referenced above, DHS will accept such audit provided that:

1. A full copy of the audit report is submitted as detailed below; **and**
2. The subrecipient shall ensure that the audit requirements are met for the terms of this contract; i.e., the prescribed Agreed-Upon Procedures (AUP) Report(s) and applicable schedule requirement(s). The incremental cost for preparation of the AUP Report(s) and the schedule cannot be charged to federal funding streams.

In the absence of a federally required audit, the entity is responsible for following the annual audit requirements described below, which are based upon the program year specified in this agreement.

DHS Audit Requirements Specific to Subrecipients

Subrecipients that **expend \$750,000 or more in combined state and federal funds, but less than \$750,000 in federal funds**, during the program year are required to have an audit of those funds made in accordance with generally accepted *Government Auditing Standards* (The Yellow Book), revised, as published by the Comptroller General of the United States. Where such an audit is not required to meet the federal requirements, the costs related to DHS audit requirements may not be charged to federal funding streams.

If in connection with the agreement, a subrecipient **expends \$500,000 or more in combined state and federal funds, but less than \$750,000 in combined state and federal funds**, during the program year, the subrecipient shall ensure that, for the term of the contract, an independent auditor conducts annual examinations of its compliance with the terms and conditions of this contract (compliance attestations). These examinations shall be conducted in accordance with the American Institute of Certified Public Accountants' Statements on Standards for Attestation Engagements, No. 18, Attestation Standards: Clarification and Recodification (SSAE 18) and shall be of a scope acceptable to the DHS. The initial compliance attestation shall be completed for the program year specified in the contract and conducted annually thereafter. The incremental cost for preparation of the compliance attestation reports cannot be charged to federal funding streams.

The subrecipient shall submit the compliance attestation reports (if applicable) to the DHS within 90 days after the program year has been completed. When the compliance attestation reports are other than unmodified, the subrecipient shall submit to the DHS, in addition to the compliance attestation reports, a plan describing what actions the subrecipient will implement to correct the situation that caused the auditor to issue other than an unmodified report, a timetable for implementing the planned corrective actions, and a process for monitoring compliance with the timetable and a contact person who is responsible for the resolution of the situation.

If the subrecipient enters into an agreement with a subcontractor(s) for the performance of any primary contractual duties, the audit requirements are applicable to the subcontractor(s) with

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AUDIT CLAUSE A/B – SUBRECIPIENT

whom the subrecipient has entered into an agreement. Consequently, the audit requirements should be incorporated into the sub-contractual document as entered by the subrecipient.

A subrecipient that **expends less than \$500,000 combined state and federal funds** during the program year is exempt from DHS audit requirements but is required to maintain auditable records for each contract year. Records must be available for review by appropriate officials of the DHS or a pass-through entity.

GENERAL AUDIT PROVISIONS

A subrecipient is responsible for obtaining the necessary audit and securing the services of an independent, licensed certified public accountant, or other independent governmental auditor.

DHS, other state agencies, and federal agencies, or their authorized representatives, may perform additional financial and/or performance audits. If an audit of this contract is to be performed, the subrecipient will be given advance notice. The subrecipient shall maintain books, records, and documents that support the services provided, that the fees earned are in accordance with the contract, and that the subrecipient has complied with the contract terms and conditions. The subrecipient shall make available, upon reasonable notice, at the office of the subrecipient, during normal business hours, for the term of this contract and the retention period set forth in this Audit Clause, any of the books, records, and documents for inspection, audit, or reproduction by any state or federal agency or its authorized representative.

Except when a longer period is stated in the contract, the subrecipient shall preserve all books, records, and documents related to this contract for a period of time that is the greater of five years from the time when the contract expires and all questioned costs or activities have been resolved to the satisfaction of DHS, or as required by applicable federal laws and regulations. Any records that support the services provided, that the fees earned are in accordance with the contract, and that the subrecipient has complied with contract terms and conditions must be maintained. If this contract is completely or partially terminated, subrecipient shall preserve the records relating to and make available for a period of five years from the date of any resulting final settlement.

Audit documentation and audit reports must be retained by the subrecipient's independent auditor for a minimum of five years from the date of issuance of the audit report, unless the subrecipient's auditor is notified in writing by DHS, other state agencies, or federal agencies to extend the retention period. Audit documentation must be made available upon request to authorized representatives of DHS, other state agencies, or federal agencies.

The subrecipient shall retain and shall make available or provide to DHS at DHS's option those records that relate to litigation of the settlement of claims arising out of performance or expenditures under the contract until such litigation, claim, or exceptions have reached final disposition.

Except for documentary evidence delivered pursuant to litigation or the settlement of claims arising out of the performance of the contract, the subrecipient may retain records as required by this Audit Clause using photographs, microphotographs, or other authentic reproductions of such records after the expiration of two years following the last day of the month of reimbursement to the contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by DHS.

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AUDIT CLAUSE A/B – SUBRECIPIENT

SUBMISSION OF AUDIT REPORTS TO THE COMMONWEALTH

A. Federally Required Audit Reports

Local Governments and Nonprofit Organizations

Submit an electronic copy of the audit report package to the Federal Audit Clearinghouse, which shall include the elements outlined in 2 CFR Part 200, Subpart F – *Audit Requirements* (Subpart F).

In addition, the subrecipient must send a copy of the confirmation from the Federal Audit Clearinghouse to the resource account RA-BAFMSingleAudit@pa.gov.

For-Profit Organizations

Submit an electronic copy of the audit report package, which shall include the elements outlined in 2 CFR Part 200, Subpart F – *Audit Requirements* (Subpart F) to the resource account RA-BAFMSingleAudit@pa.gov.

B. DHS Required Audit Reports and Additional Submission by Subrecipients

1. Independent Accountant’s Report on Applying Agreed-Upon Procedures – which consist of the following procedures for the funding provided by this agreement for the contract year ending within the entity’s fiscal year end under audit:

- (a) Verify by comparison of the amounts and classifications that the supplemental financial schedules listed below, which summarize amounts reported to DHS for fiscal year ended {CONTRACT YEAR END}, have been accurately compiled and reflect the audited books and records of (Auditee). Also verify by comparison to the example schedules that these schedules are presented, at a minimum, at the level of detail that directly mirrors the budget page (Rider 3) of the contract. The Schedule of Revenues and Expenditures should mirror the line items on the budget pages of the contract and include a budget and an actual expenditure column pertaining to this period.

Program Name/ Contract Number Referenced Schedule/Exhibit

(List each individual schedule for all contracts in which the auditee participated.)

- (b) Inquire of management regarding adjustments to reported revenues or expenditures, which were not reflected on the reports submitted to DHS for the period in question.
- (c) Based on the procedures detailed in paragraphs (a) and (b) above, disclose any adjustments and/or findings and identify which have (have not) been reflected on the corresponding schedules.

(List each separately. Indicate whether it has/has not been reflected on the schedule.)

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2. Independent Accountant’s Report on Applying Agreed-Upon Procedures – which consist of the following procedures for the entity’s fiscal year end under audit. All Local Governments and Nonprofit Organizations who are submitting a single audit in accordance with 2 CFR Part 200, Subpart F, and For-Profit Organizations who are submitting a single audit in accordance with Title 45, CFR 75.501(i), are also required to include in their single audit reporting package a supplemental schedule, which is to be subjected to an Agreed-Upon Procedures engagement. The schedule, for which an example is included in this audit clause as Enclosure I, is a reconciliation of the expenditures listed on the Schedule of Expenditures of Federal Awards (SEFA) to the Federal award income received from the Pennsylvania Department of Human Services (DHS), as noted in the revenue audit confirmation received from the Commonwealth of Pennsylvania. The procedures to be performed on the reconciliation schedule are as follows:
- (a) Agree the expenditure amounts listed on the reconciliation schedule under the “Federal Expenditures per the SEFA” column to the audited Schedule of Expenditures of Federal Awards (SEFA).
 - (b) Agree the receipt amounts listed on the reconciliation schedule under the “Federal Awards Received per the audit confirmation reply from Pennsylvania” column to the subrecipient Federal amounts that were reflected in the audit confirmation reply from the Office of Budget, Comptroller Operations.
 - (c) Recalculate the amounts listed under the “Difference” and “% Difference” columns.
 - (d) Agree the amounts listed under the “Difference” column to the audited books and records of the subrecipient.
 - (e) Agree the “Detailed Explanation of the Differences” to the audited books and records of the subrecipient.
 - (f) Based on the procedures detailed in paragraphs (a) through (e) above, disclose any adjustments and/or findings which have not been reflected on the corresponding schedules (List each separately.).

PERIOD SUBJECT TO AUDIT

A federally required audit, conducted in accordance with Subpart F, or Title 45, CFR 75.501(i), as appropriate, encompasses the fiscal period of the subrecipient. **Therefore, the period of the federally required audit may differ from the official reporting period as specified in this agreement.** Where these periods differ, the required supplemental schedule(s) of Revenues and Expenditures and the related Independent Accountant’s Report on Applying Agreed-Upon Procedures must be completed for the official annual reporting period of this agreement that ended during the period under audit and shall accompany the federally required audit.

CORRECTIVE ACTION PLAN

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The subrecipient shall prepare a corrective action plan (CAP) to address all findings of noncompliance, internal control weaknesses, and/or reportable conditions disclosed in the audit report. For each finding noted, the CAP should include: (1) a brief description identifying the findings; (2) whether the subrecipient agrees with the finding; (3) the specific steps taken or to be taken to correct the deficiency or specific reasons why corrective action is not necessary; (4) a timetable for completion of the corrective action steps; (5) a description of monitoring to be performed to ensure that the steps are taken; and (6) the responsible party for the CAP.

REMEDIES FOR NONCOMPLIANCE

The subrecipient's failure to provide an acceptable audit may result in the DHS not accepting the report and initiating actions against the subrecipient that may include the following:

- Disallowing the cost of the audit.
- Withholding a percentage of the contract funding pending compliance.
- Withholding or disallowing administrative costs.
- Suspending subsequent contract funding pending compliance.
- Requiring a corrective action plan.
- Terminating the contract if the failure is not corrected within the time period approved by DHS.

- Assessing liquidated damages up to the amount of \$200 for each calendar day and portion of each calendar day for which each required audit or compliance attestation report is submitted beyond its required due date. Audits submitted without required AUP reports will not be considered acceptable and will be subject to liquidated damages.

TECHNICAL ASSISTANCE

Technical assistance on the DHS' audit requirements and the integration of those requirements with the federal Single Audit requirements will be provided by:

Department of Human Services
Bureau of Financial Operations
Division of Audit and Review
Audit Resolution Section
1st Floor, Forum Place
555 Walnut Street
P.O. Box 2675
Harrisburg, Pennsylvania 17105-2675
Email: RA-pwauditresolution@pa.gov

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AUDIT CLAUSE A/B – SUBRECIPIENT

SUBRECIPIENT / CONTRACTOR AUDITS											
AUDIT CLAUSE A/B – SUBRECIPIENT											
ENCLOSURE I											
Entity Name											
Year Ended (ORGANIZATION'S FINANCIAL STATEMENT DATE)											
SUPPLEMENTAL SCHEDULE											
RECONCILIATION											
Federal Awards Passed through the Pennsylvania Department of Human Services											
Expenditures per the SEFA to Revenue Received per the Pennsylvania Audit Confirmation Reply											
CFDA Name	CFDA Number		Federal Expenditures per the SEFA		Federal Awards Received per the audit confirmation reply from Pennsylvania		Difference		% Difference		Detailed Explanation of the Differences
			\$		\$		\$		%		