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## **State-based Marketplace Independent External Audit Technical Assistance**

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## OVERVIEW

The Program Integrity Rule Part II (“PI Reg.”) found [here](#), 45 CFR §155.1200(c), states, “The State [Marketplace] must engage an independent qualified auditing entity which follows generally accepted governmental auditing standards (GAGAS) to perform an annual independent external financial and programmatic audit and must make such information available to the U.S. Department of Health and Human Services for review.” State-based Marketplaces using the federal platform (SBM-FPs) are also required to meet these requirements.

Independent external audits are a standard practice used by government, and private and public sector organizations to ensure accountability in all financial and programmatic activities and to determine whether an organization adheres to policies, procedures, and requirements.

The Independent External Audit requirement includes both financial and programmatic components. As outlined in 45 CFR §155.1200(a)(1), the financial audit component focuses on compliance with requirements related to accurate accounting of Marketplace receipts and expenditures in accordance with generally accepted accounting principles (GAAP). Programmatic or performance audits are defined as audits that provide findings or conclusions based on an evaluation of sufficient, appropriate evidence against particular criteria. SBMs may use the information in this document as a reference or checklist to ensure all CMS requirements and expectations are addressed.

## SELECTION OF AN AUDIT ENTITY

Each SBM, including SBM-FPs, must select an independent external auditor to perform the annual independent external (financial and programmatic) audit. On June 18, 2014, the Centers for Medicare & Medicaid (CMS) issued frequently asked questions (FAQs) for SBMs (see Frequently Asked Questions about the Annual Independent External Audit of State-based Marketplaces (SBMs) that addressed the selection of an audit entity). A summary of the FAQs is provided in this section:

- The auditor chosen by the Marketplace must comply with 45 CFR §155.1200(c). CMS proposes that the SBM engage either a governmental or private independent qualified auditing entity that meets financial accounting standards, GAAP, and follows GAGAS, to perform an annual independent external financial and programmatic audit of the SBM.
- The auditor must be autonomous from the Marketplace. However, the preamble to the PI Reg. states that this requirement may be satisfied through an audit by an independent state-government entity. This entity must be selected to avoid any real or potential perception of conflict of interest, including being free from personal, external, and organizational impairments to independence, or the appearance of such impairments of independence.

## KEY CONSIDERATIONS FOR THE PROGRAMMATIC COMPONENT OF THE INDEPENDENT EXTERNAL AUDIT

### SCOPE

In accordance with 45 CFR §155.1200, the annual financial and programmatic components of the audit must address:

- Compliance with accounting requirements specified in 45 CFR §155.1200(a)(1);
- Processes and procedures designed to prevent improper eligibility determinations and enrollment transactions;
- Identification of errors that resulted in incorrect eligibility determinations; and
- Compliance with subparts of 45 CFR Part 155, which are:

- General Standards (Subpart B),
- General functions (Subpart C),
- Eligibility Determinations (Subpart D),
- Enrollment Functions (Subpart E),
- Appeals of Eligibility Determinations (Subpart F),
- Exemptions (Subpart G),
- SHOP (Subpart H),
- Certification of Qualified Health Plans (Subpart K),
- Oversight and Program Integrity Standards (Subpart M),
- State Flexibility (Subpart N),
- Quality Reporting Standards (Subpart O), and
- *Subparts I, J, and L are reserved for future use.*

SBMs are required to submit a programmatic audit that addresses Subparts C, D, E and K at a minimum. SBM-FP are required to submit a programmatic audit that addresses Subparts C and K at a minimum. The remainder of this document will focus on the programmatic component of the independent external audit. Within 45 CFR Part 155, key subparts make up the core functions of Marketplace operations and affect a large number of consumers. Thus, the Center for Consumer Information and Insurance Oversight (CCIIO) suggests that auditors address the following key areas:

- Under Subpart C (General Functions of an Exchange), key standards include those related to:
  - Consumer Assistance programs, including Marketplace call centers, the Marketplace's Internet website, accessibility for consumers living with disabilities and/or limited English proficiency, and consumer outreach and education;
  - Navigator programs;
  - Agent and brokers;
  - Certified application counselors;
  - Notices to individuals and employers;
  - Payment of premium; and
  - Privacy and security (SBMs are obligated to adhere to MARS-E for implementing their privacy and security controls).
- Under Subpart D (Exchange Functions in the Individual Market: Eligibility Determinations for Exchange Participation and Insurance Affordability Programs), key standards include those related to:
  - Conducting eligibility determinations;
  - Verification of eligibility for enrollment in both a Qualified Health Plan (QHP) and/or insurance affordability programs;
  - Redeterminations, both during the benefit year and the annual open enrollment period;
  - Administration of payments of advanced premium tax credits (APTCs) and cost sharing reductions;
  - Coordination with Medicaid, Children's Health Insurance Program (CHIP), the Basic Health Program, and the Pre-existing Condition Insurance Program; and
  - Special processes and requirements for Indians.
- Under Subpart E (Exchange Functions in the Individual Market: Enrollment in Qualified Health Plans), key standards include those related to:
  - Streamlined applications;
  - Initial and annual open enrollment periods;
  - Application assisters;
  - Special enrollment periods; and
  - Termination of coverage.
- Under Subpart K (Certification of Qualified Health Plans), key standards include those related to:
  - Certification, recertification, and decertification process;

- Rates and benefits;
- Application of advanced premium tax credit (APTC) payments and cost sharing reduction;
- Transparency in coverage;
- Accreditation;
- Network adequacy standards;
- Service areas; and
- Standalone dental plans.

## OBJECTIVES

The programmatic audit objective categories listed below are based on GAGAS guidance. Each audit objective category includes examples of actual audit objectives:

- Program Effectiveness and Results
  - Assessing the current status or condition of program operations or progress in implementing legislative requirements;
  - Analyzing the relative cost-effectiveness of a program or activity;
  - Determining whether a program produced intended results or produced results that were not consistent with the program's objectives; and
  - Assessing the relative ability of alternative approaches to yield better program performance or eliminate factors that inhibit program effectiveness.
- Compliance
  - Assessing the extent to which legislative, regulatory, or organizational goals and objectives are being achieved; and
  - Determining the current status of program operations in implementing legislative requirements.
- Analysis
  - Assessing the extent to which programs duplicate, overlap, or conflict with other related programs.
- Internal Controls
  - Assessing the extent to which internal control provides reasonable assurance about whether:
    - Resources, including sensitive information accessed or stored from within or outside the organization's physical perimeter, are safeguarded against unauthorized acquisition, use, or disposition;
    - Management information, such as performance measures, and public reports are complete, accurate, and consistent to support performance and decision making;
    - Integrity of information from computerized systems is maintained; and
    - Contingency planning for information systems provides essential back-up to prevent unwarranted disruption of the activities and functions that the systems support.

Internal controls serve as the foundation of an organization's operations. Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations, and management's system for measuring, reporting, and monitoring program performance. It is suggested that internal controls be a major focus of the audit, because weaknesses in these areas can be an indication of issues in other programmatic audit categories.

These internal control audit objectives are designed to provide reasonable assurance of achieving effective and efficient operations, reliable financial and performance reporting, or compliance with applicable laws and regulations. Internal control objectives also may be relevant when determining the cause of unsatisfactory program performance.

## AUDIT PROCEDURES

The independent external auditor can define his or her own methodology, as long as guidelines set forth in GAGAS are followed. The auditor should consider including the following, audit, or similar, procedures in his or her field work and associated test steps:

- Review of policies and procedures;
- Review of staff training materials;
- Review notices to consumers;
- Randomly select and interview Marketplace staff members to determine understanding of Marketplace requirements;
- Select a sample of eligibility files to validate proper processing;
- Select a sample of enrollment files to validate proper processing;
- Select a sample of invoices to validate expenses are classified correctly in the financial statement;
- Review completed QHP issuer applications for compliance with certification requirements;
- Test a sample of the SBM System Security Plan (SSP) or review the independent assessor's most recent Security Assessment Report; and
- Test data reliability.

## REPORTING

The table below outlines suggested topics to include in the audit findings report, as stipulated by CMS and/or GAGAS. This list is not exhaustive, but provides examples of content that should be considered during the independent external audit. A checklist of independent external audit requirements to consider by the SBM and auditor are also provided in Appendix A: Independent External Audit Requirements checklist of this document.

Audit Report Topic	Report Content Examples
<i>Executive Summary</i>	<ul style="list-style-type: none"><li>• The <b>independent external auditor</b> should include:<ul style="list-style-type: none"><li>– Purpose of the audit.</li><li>– Scope of the audit, including the specific documents, 45 CFR 155 subparts reviewed, and time period of the review.</li><li>– Statement that the auditor has complied with GAAP and GAGAS audit standards.</li><li>– Methodology used to conduct the audit to include any quantitative and qualitative tests performed by the auditor.</li><li>– The nature of confidential or sensitive information possibly omitted.</li><li>– General conclusions reached regarding SBM compliance with the financial and programmatic requirements, including compliance with GAAP.</li></ul></li></ul>
<i>Audit Findings</i>	<ul style="list-style-type: none"><li>• The <b>independent external auditor</b> should include:<ul style="list-style-type: none"><li>– Specific audit findings, including a summary of compliance or non-compliance with all requirements.</li><li>– Material weaknesses, significant deficiencies, and violations found. Findings should include these clearly defined categories.</li></ul></li></ul>
<i>Recommendations</i>	<ul style="list-style-type: none"><li>• The <b>independent external auditor</b> should include recommended improvements to operating procedures to comply with programmatic and financial requirements. Recommendations should be specific, measurable, attainable, realistic, and time bound.</li></ul>

Audit Report Topic	Report Content Examples
<i>Conclusion</i>	<ul style="list-style-type: none"><li>• The <b>independent external auditor</b> should confirm the auditing entity has reviewed relevant documentation and determined that the SBM is in compliance with CMS requirements, GAGAS, and GAAP.</li></ul>
<i>Corrective Action Plan</i>	<ul style="list-style-type: none"><li>• The <b>SBM</b> should provide detailed corrective action plans on how the Marketplace will address and correct any material weaknesses and significant deficiencies. See more guidance below.</li></ul>

Each SBM and its independent external auditor may define the report contents and structure. The audit findings report should be provided to CMS as a PDF document. CMS has provided SBMs with an example report template. The template is available at:

[https://servis.cms.gov/resources/document\\_detail?doc\\_detail\\_id=a6f0075a-9a7f-5be3-8a2c-5316253ae230](https://servis.cms.gov/resources/document_detail?doc_detail_id=a6f0075a-9a7f-5be3-8a2c-5316253ae230)

### CORRECTIVE ACTION PLANS:

For any material weakness or significant deficiency identified in the audit, the SBM must develop a corrective action plan (CAP) and notify CMS (45 CFR §155.1200(c)(2)).

- **Definitions for Financial Audit**

The terms “material weakness” and “significant deficiency” for financial audits are defined [here](#) by the Certified Public Accountants (AICPA) and Government Auditing Standards issued by the Government Accountability Office.

- A **material weakness** is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.
- A **significant deficiency** is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

- **Definitions for Programmatic (Compliance) Audit**

The terms “material weakness” and “significant deficiency” for programmatic (compliance) audits are defined [here](#) by the Certified Public Accountants (AICPA) and Government Auditing Standards issued by the Government Accountability Office.

- A **material weakness** is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that a material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis.
- A **significant deficiency** is a deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

A CAP is a step-by-step plan of action that is developed to resolve the identified issues. CCIO recommends that the Marketplace include the following key components in its CAP:

- Description of the identified weakness or deficiency and of the root cause of such weakness;
- Proposed action steps resolve the weakness or deficiency;



- Timeline for implementing the action steps;
- Plan for monitoring the implementation; and
- Plan for validating that the implemented steps correct the weakness or deficiency.

Keep the following tips in mind when developing an effective CAP:

- Engage Subject Matter Experts (SMEs) in the CAP development and implementation process;
- Determine the underlying cause of the material weakness or significant deficiency;
- Perform, when appropriate, a cost benefit analysis to determine which corrective actions are most cost effective;
- Set achievable deadlines, targets and milestones; and
- Evaluate and monitor the corrective action progress to ensure compliance.

## SHARING RESULTS WITH CMS AND MAKING A SUMMARY AVAILABLE TO THE PUBLIC

Each Marketplace must submit the results of its annual independent audit to CMS and inform CMS of any material weakness or significant deficiencies identified in the audit. The Marketplace must also develop and inform CMS of a corrective action plan for such material weakness or significant deficiencies. A PDF version of the audit findings report should be submitted as part of the SMART on SERVIS.

In addition, as a requirement of the State-based Marketplace Annual Reporting Tool (SMART), to be completed annually, the Marketplace must attest to whether the auditor completed the required annual financial and programmatic audit. Per 45 CFR §155.1200(c)(3), ***the Marketplace is required to make public a summary of the results of the external audit.***

The SBM, its contractors, subcontractors, and agents, as required in the PI Reg., must retain documents reviewed and completed based on the independent external audit for ten (10) years. Documents include records (whether paper, electronic, or other media) and other evidence of accounting procedures and practices of the SBM. These records must be sufficient and appropriate to respond to any periodic auditing, inspection or investigation of the SBM's financial records or to enable CMS or its designee to appropriately evaluate the SBM's compliance with Federal requirements.

## RESOURCES

The table below provides agency-specific and government-wide resources available to the SBM and its auditor as guidance in performing the independent external audit and completing the audit findings report.

Resource	Use	Location
<i>Generally Accepted Governmental Auditing Standards (GAGAS)</i>	<ul style="list-style-type: none"><li>• Framework for conducting high-quality audits with competence, integrity, objectivity, and independence.</li><li>• For use by auditors of government entities, entities that receive government awards, and other audit organizations performing Yellow Book audits.</li></ul>	<a href="http://www.gao.gov/yellowbook/overview">http://www.gao.gov/yellowbook/overview</a>
<i>Generally Accepted Accounting Principles (GAAP)</i>	<ul style="list-style-type: none"><li>• Authoritative source of GAAP developed by the Federal Accounting Standards Advisory Board (FASAB) for Federal entities.</li><li>• Pertains to financial statements or other financial data.</li></ul>	<a href="http://www.fasab.gov/accounting-standards/authoritative-source-of-gaap/">http://www.fasab.gov/accounting-standards/authoritative-source-of-gaap/</a>
<i>OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations</i>	<ul style="list-style-type: none"><li>• Standards for obtaining consistency and uniformity among Federal agencies for the audit of states, local governments, and nonprofit organizations expending Federal awards, and review of previous audits.</li></ul>	<a href="http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf">http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf</a>



Resource	Use	Location
<i>External Audit Findings Report Example Template</i>	<ul style="list-style-type: none"> <li>Requirements that must be fulfilled by auditor and a sample format for submission.</li> <li>Sample format for the intended corrective action plan that must be submitted to CMS by the SBM.</li> </ul>	<a href="https://servis.cms.gov/resources/document_detail?doc_detail_id=a6f0075a-9a7f-5be3-8a2c-5316253ae230">https://servis.cms.gov/resources/document_detail?doc_detail_id=a6f0075a-9a7f-5be3-8a2c-5316253ae230</a>

## APPENDIX A: INDEPENDENT EXTERNAL AUDIT REQUIREMENTS CHECKLIST

CMS has developed a checklist of items to consider when conducting an independent external audit, submitting the result to CMS, and making the results publicly available. This checklist is not exhaustive, but is designed to remind the auditor and Marketplace of key requirements.

Independent External Audit Technical Assistance Materials	
<input type="checkbox"/>	The Marketplace has downloaded the Independent External Audit Technical Assistance document and External Audit Report Example Template from SERVIS. These documents have also been shared with the auditor.
Conducting the Independent External Audit	
<input type="checkbox"/>	The audit report clearly states the type of audit conducted (e.g., financial, programmatic, or both) and the auditor who performed the audit(s).
<input type="checkbox"/>	The audit report clearly states the dates of the audit period reviewed by the auditor.
<input type="checkbox"/>	The audit report clearly states that the auditor followed GAGAS (applies to financial and programmatic independent external audits) and/or GAAP (applies to financial statements).
<input type="checkbox"/>	The audit report clearly defines the documents reviewed (e.g., financial statement, oversight and monitoring policies procedure, eligibility and enrollment documents) and the 45 CFR 155 subparts reviewed by the auditor.
<input type="checkbox"/>	The audit report clearly distinguishes audit findings as a material weakness, significant deficiency, or other.
<input type="checkbox"/>	The SBM has developed a corrective action plan (CAP) addressing any material weaknesses or significant deficiencies identified by the auditor. The SBM has provided a response for findings defined as “other.”
Submitting the Independent External Audit Results to CMS	
<input type="checkbox"/>	<p>The external financial audit results and annual financial statement were submitted to CMS by April 1st via the SERVIS Document Upload feature. Instructions on how to use this feature were sent to the SBM by the State Officer.</p> <p>A corrective action plan (CAP) addressing material weaknesses or significant deficiencies in the financial audit should be included.</p>
<input type="checkbox"/>	<p>The external programmatic audit results were submitted to CMS via the SMART module on SERVIS by the due date specified by CMS.</p> <p>A corrective action plan (CAP) addressing material weaknesses or significant deficiencies in the programmatic audit should be included.</p>
Making a Summary of Audit Results Available to the Public	
<input type="checkbox"/>	The SBM has made a summary of the external <i>programmatic</i> audit results available to the public via the SBM’s website.
<input type="checkbox"/>	The SBM has made a summary of the external <i>financial</i> audit results available to the public via the SBM’s website.

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