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## **Provider Relief Fund (PRF) and Single Audit Compliance Requirements**

The *Coronavirus Aid, Relief and Economic Security Act* (CARES Act), signed by the President on March 27, 2020, provided significant federal funding to hospitals and other healthcare providers. One of the largest COVID-19 programs included in the legislation is the U.S. Department of Health and Human Services (HHS) Provider Relief Fund ([#93.498](#)). The purpose of the funding is to support healthcare-related expenses or lost revenue attributable to COVID-19 and to ensure uninsured Americans can get testing and treatment for COVID-19. The substantial funding provided under this program is likely to cause a significant increase in the number of hospitals and other healthcare providers that may be subject to a single audit.

### **What is a Single Audit?**

A single audit is a compliance audit for entities that expend \$750,000 or more of federal financial assistance in a fiscal year. Performed in conjunction with the entity's financial statement audit, it is used by federal agencies to monitor compliance of federal award programs. Once complete, the single audit reporting package is submitted to the [Federal Audit Clearinghouse](#).

The first Single Audit Act became law in 1984, and it established requirements to streamline and improve the effectiveness of single audits of federal awards. In 2013, the United States Office of Management and Budget (OMB) codified the Single Audit Act in Title 2 of the Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. This current regulation is known as the Uniform Guidance. Each year the OMB issues a Compliance Supplement (Supplement) to be used by auditors in performing a single audit. The Supplement is an important source of information to understand federal program objectives and compliance requirements. The 2020 OMB Compliance Supplement can be accessed [here](#) and is effective for audits of fiscal years beginning after June 30, 2019.

In response to COVID-19, the OMB is working with federal agencies to identify the needs for additional guidance for new federal funding and expects to publish an addendum to the 2020 OMB Compliance Supplement in the fall of 2020 (expected by mid-November 2020). A list of federal programs expected to be included in the addendum to the 2020 OMB Compliance Supplement can be accessed [here](#).

### **How to Prepare for a Single Audit**

Provider Relief Fund (#93.498) payments (General and Targeted Distributions) are Federal awards and must be included in determining whether a single audit is required.

## *Applicable Uniform Guidance*

OMB Uniform Guidance ([2 CFR part 200](#)) implements the Single Audit Act and is applicable for all entities under single audit. [2 CFR part 300](#) is where HHS adopted 2 CFR part 200 and references HHS specific amendments in [45 CFR part 75](#). So, 45 CFR part 75 supplements the guidance in 2 CFR part 200 and is additional information that recipients of HHS funding have to consider in addition to the overarching Uniform Guidance. Entities will comply with both, but 45 CFR part 75 includes specific information as it relates to HHS awards. Much of the information is the same, and the Chief Financial Officers Council (CFOC) website includes a crosswalk of additions and changes.

[45 CFR part 75](#) is made up of the following subparts.

### [Subpart A](#) – Acronyms and Definitions (§ 75.1 – 75.2)

- The following are two of several definitions included in this section.
  - *Expenditures* means charges made by a non-Federal entity to a project or program for which a Federal award was received. The charges may be reported on a cash or accrual basis, as long as the methodology is disclosed and is consistently applied.
    - For reports prepared on an accrual basis, expenditures are the sum of:
      - (i) Cash disbursements for direct charges for property and services;
      - (ii) The amount of indirect expense incurred;
      - (iii) The value of third-party in-kind contributions (value of non-cash contributions) applied; and
      - (iv) The net increase or decrease in the amounts owed by the non-Federal entity for (A) Goods and other property received; (B) Services performed by employees, contractors, subrecipients, and other payees; (C) Programs for which no current services or performance are required such as annuities, insurance claims, or other benefit payments.
  - *Federal award date* means the date on which the Federal award is signed by the authorized official of the Federal awarding agency.

### [Subpart B](#) – General Provisions (§ 75.100 – 75.113)

- General provisions, effective date, etc.
- Mandatory disclosures for violations of Federal criminal law involving fraud, bribery, or gratuity violations. Required to report certain civil, criminal, or administrative proceedings to revise to System for Award Management (SAM).

Subpart C – Not applicable to Provider Relief Funds

### [Subpart D](#) – Post Federal Award Requirements (§ 75.300 – 75.391)

- Standards for Financial and Program Management
  - Responsible for complying with all requirements of the Federal award (§ 75.300(b))
    - Active SAM registration – System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <http://www.sam.gov>).

- Financial management systems (HHS specifically identified § 75.302 for PRF)
  - Identification of all federal awards (§ 75.302(b)(1))
  - Accurate and complete financial results (§ 75.302(b)(2))
  - Effective control over and accountability (§ 75.302(b)(4))
  - Written procedures to implement Payment requirements in § 75.305 (§ 75.302(b)(6))
    - Must minimize the time elapsing between the transfer of funds (advance payment) and disbursement (use) (§ 75.305(b)).
    - Separate depository accounts are not required (§ 75.305(b)(7)(i)).
    - Funds must be deposited and maintained in insured accounts whenever possible (§ 75.305(b)(7)(ii)).
    - Advance payments of Federal awards must be maintained in interest-bearing accounts, unless the following apply (§ 75.305(b)(8)):
      - (i) The non-Federal entity receives less than \$120,000 in Federal awards per year.
      - (ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
      - (iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
      - (iv) A foreign government or banking system prohibits or precludes interest bearing accounts.
    - Interest earned amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to HHS. (§ 75.305(b)(9))
  - Written procedures for determining allowability of costs (subpart E) and [terms and conditions](#) of federal award (§ 75.302(b)(7)).
- Establish and maintain effective internal control over the federal award (for example, COSO and Green Book) that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award (§ 75.303(a)). The five components of internal control are:
  - Control environment
  - Risk assessment
  - Information and communication systems
  - Control activities
  - Monitoring
- Property Standards (§ 75.316 - 75.323) – Standards governing property management (title, use, requirements, disposition, etc.) whose cost was charged directly to a project supported by an HHS award.

- Procurement Standards
  - Written conflicts of interest standards for contracts (§ 75.327(c)(1))
  - Must avoid acquisition of unnecessary or duplicative items (§ 75.327(d))
  - Economical purchase / cost-effective use of shared services
  - Contracts subject to the non-procurement debarment and suspension regulations (§ 75.327(h))
  - Records sufficient to detail rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (§ 75.327(i))
  - Written procedures for procurement transactions (§ 75.328(c))
- Methods of procurement “Claw” (§ 75.329)
  - Micro-purchases (\$3,000)
  - Small purchase procedures (\$150,000)
  - Sealed bids
  - Competitive proposals
  - Noncompetitive proposals (item is only available from a single source, public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation)
- Performance and Financial Monitoring and Reporting – [HHS reporting requirements](#) (§ 75.341 - 75.343)
- Subrecipient Monitoring and Management – Requirements for pass-through entities (§ 75.351 - 75.353)
- Record Retention and Access – Three-year record retention (with some time extensions) (§ 75.361) (HHS specifically identified § 75.361 - 75.365 for PRF)
- Remedies for Noncompliance (§ 75.371 - 75.375)
- Closeout – Promptly refund any balances of unobligated cash that the HHS awarding agency or pass-through entity paid in advance or paid and that are not authorized to be retained by the non-Federal entity for use in other projects. (§ 75.381)
- Post-Closeout Adjustments and Continuing Responsibilities
- Collection of Amounts Due – Funds in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal Government. 90 calendar days with interest on overdue debt. (§75.391)

[Subpart E](#) – Cost Principles (§ 75.400 – 75.477)

- Fundamental premises (§ 75.400):
  - Sound organization and management practices
  - Consistent with agreements, program objectives, and terms and conditions of Federal award
  - Adequate documentation to support costs
  - May not earn or keep any profit resulting from Federal financial assistance

- The total cost of a Federal award is the sum of the allowable direct and allocable indirect costs less any applicable credits (for example, purchase discounts, recoveries, insurance refunds). (§ 75.402)
- Costs must: (§ 75.403)
  - Be necessary and reasonable (prudent) for the performance of the Federal award
    - Ordinary and necessary for performance of award, arm's length, comparable market prices, any deviation from established practices or policies
  - Conform to any limitations or exclusions set forth in these principles
  - Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the non-Federal entity
  - Be accorded consistent treatment (direct cost vs. indirect cost)
  - Be determined in accordance with generally accepted accounting principles (GAAP)
  - Not be included as a cost or used to meet cost sharing or matching requirements of any other federally financed program (no double dipping)
  - Be adequately documented
- There is no universal rule for classifying certain costs as either direct or indirect ("Facilities and Administration"). It is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect cost in order to avoid possible double charging of Federal awards. Identification with the Federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of Federal awards. § 75.413 covers direct costs and § 75.414 covers indirect costs.
- § 75.420 - 75.475 cover provisions for several selected items of cost (for example, audit services, compensation, depreciation, employee benefits, equipment, supplies, rental costs, etc.).

#### Subpart F – Audit Requirements (§ 75.500 – 75.521)

- A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part. The non-Federal entity should prepare the Financial Statements and Schedule of Expenditures of Federal Awards (SEFA), promptly follow up and take corrective action on any audit findings or noncompliance, prepare summary schedule of prior audit findings if any, prepare corrective action plan if there are findings, and prepare the required data elements of the Data Collection Form (DCF) ([§ 75.508](#)).
- HHS is responsible for providing OMB annual updates to the compliance supplement ([Appendix XI to Part 75](#)) to ensure it focuses the auditor to test the compliance requirements most likely to cause improper payments, fraud, waste, abuse or generate audit findings for which the Federal awarding agency will take sanctions (§ 75.513(c)(4)).
  - Compliance Requirements:
    - A – Activities Allowed or Unallowed – Were federal awards expended only for allowable activities?
    - B – Allowable Costs/Cost Principles – Were costs in adherence with Subpart E Cost Principles?
    - C – Cash Management – Did the non-Federal entity follow cash management policies and procedures?
    - E – Eligibility – Were individuals, groups of individuals including area of service delivery, or subrecipients eligible to participate in the program?

- F – Equipment and Real Property Management – Is equipment and property being used and maintained in accordance with the program requirements?
- G – Matching, Level of Effort, Earmarking – Not applicable to Provider Relief Funds.
- H – Period of Performance – Did the non-Federal entity only charge allowable costs incurred during the period of performance (or other period authorized by the Federal awarding agency)?
- I – Procurement and Suspension and Debarment – Did the non-Federal entity follow appropriate written procurement policies and procedures?
- J – Program Income – Has program income (gross income such as fees for services) earned that was directly generated or earned as a result of the federal award been deducted from total allowable costs (unless there’s an approval from federal awarding agency for a different method)?
- L – Reporting – Did the non-Federal entity submit accurate and complete financial, performance, or special reports to the federal awarding agency?
- M – Subrecipient Monitoring – If the pass-through entity provided subrecipient awards, did they appropriately evaluate and monitor to ensure that the subaward was used for authorized purposes, complied with the terms and conditions of the subaward, and achieved performance goals?
- N – Special Tests and Provisions – Did the non-Federal entity comply with special tests and provisions related to the federal award?
- [Additional HHS Auditing Guidance](#) from HHS website:
  - The recipients of Provider Relief Fund payments may be subject to auditing to ensure the accuracy of the data submitted to HHS for payment. Any recipients identified as having provided inaccurate information to HHS will be subject to payment recoupment and other legal action. Further, all recipients of Provider Relief Fund payments shall maintain appropriate records and cost documentation including, as applicable, documentation described in 45 CFR § 75.302 – Financial management and 45 CFR § 75.361 through 75.365 – Record Retention and Access, and other information required by future program instructions to substantiate that recipients used all Provider Relief Fund payments appropriately.
  - Upon the request of the Secretary, the recipient shall promptly submit copies of such records and cost documentation and the recipient must fully cooperate in all audits the Secretary, Inspector General, or Pandemic Response Accountability Committee conducts to ensure compliance with applicable Terms and Conditions. Deliberate omission, misrepresentation, or falsification of any information contained in payment applications or future reports may be punishable by criminal, civil, or administrative penalties, including, but not limited to, revocation of Medicare billing privileges, exclusion from federal health care programs, and/or the imposition of fines, civil damages, and/or imprisonment.

**We are here to help.**

Draffin Tucker understands the challenges healthcare entities are facing to ensure compliance with new federal assistance programs. Our professionals have an in-depth understanding of the regulations and can assist your healthcare organization navigate the various funding programs and respond to compliance reporting requirements. For additional information, visit our [COVID-19 Resource Center](#) or reach out to one of our experts.