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Code: Section:

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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98] (*Division 9 added by Stats. 1965, Ch. 1784.*)

PART 1.8. Child Care and Development Services Act [10207 - 10492.2] (*Part 1.8 added by Stats. 2021, Ch. 116, Sec. 260.*)

CHAPTER 27. Direct Service Contract Audit Requirements [10440 - 10441] (*Chapter 27 added by Stats. 2021, Ch. 116, Sec. 260.*)

[10440.](#) As used in this chapter:

(a) "Financial and compliance audit" means a systematic review or appraisal to determine each of the following:

(1) Whether the financial statements of an audited organization fairly present the financial position and the results of financial operations in accordance with generally accepted accounting principles.

(2) Whether the organization has complied with laws and regulations that may have a material effect upon the financial statements.

(b) "Public accountants" means certified public accountants, or state licensed public accountants.

(c) "Independent auditors" means public accountants who have no direct or indirect relationship with the functions or activities being audited or with the business conducted by any of the officials or contractors being audited.

(d) "Generally accepted auditing standards" means the auditing standards set forth in the financial and compliance element of the "Government Auditing Standards" issued by the Comptroller General of the United States and incorporating the audit standards of the American Institute of Certified Public Accountants.

(e) "Direct service contract" means any contract with any public or private entity for child care and development programs, resource and referral programs, and programs contracting to provide support services as defined in Section 10213.5.

(f) "Nonprofit organization" means an organization described in Section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under Section 501(a) of that code, or any nonprofit, scientific, or educational organization qualified under Section 23701d of the Revenue and Taxation Code.

(g) (1) Annually, there shall be a single independent financial and compliance audit of organizations that contract with the state under a direct service contract. Any such audit shall include an evaluation of the accounting and control systems of the direct service contractor and of the activities by the contractor to comply with the financial requirements of direct service contracts received by the contractor from the state agency. The financial and compliance requirements to be reviewed during the audit shall be those developed and published by the department in consultation with the Department of Finance. Audits carried out pursuant to this section shall be audits of the contractor rather than audits of individual contracts or programs. In the case of any contractor that receives less than twenty-five thousand dollars (\$25,000) per year from any state agency, the audit required by this section shall be conducted biennially, unless there is evidence of fraud or other violation of state law in connection with the direct service contract. The cost of the audit may be included in direct service contracts.

(2) The organization receiving funds from the state shall be responsible for obtaining the required financial and compliance audits of the organization and any subcontractors, except for direct service subcontracts and other subcontracts exempt from the department review, as agreed to by the Departments of Finance and General Services. The audits shall be made by independent auditors in accordance with generally accepted auditing standards. The audit shall be completed by the 15th day of the fifth month following the end of the contractor's fiscal year. A copy of the required audit shall be filed with the department upon its completion. In the event an audit is not filed, the department shall notify the organization of the contract violation. The audit report filed shall be an integral part of the direct service contract file.

(h) (1) Nothing in this chapter limits the authority of the department to make audits of direct service contracts. However, if independent audits arranged for by direct service contractors meet generally accepted auditing standards, the department shall rely on those audits and any additional audit work shall build upon the work already done.

(2) Nothing in this chapter precludes the state from conducting, or contracting for the conduct of, contract performance audits which are not financial and compliance audits.

(3) Nothing in this chapter limits the state's responsibility or authority to enforce state law or regulations, procedures, or reporting requirements arising pursuant thereto.

(4) Nothing in this chapter limits the responsibility of the department to provide an independent appeal procedure according to the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2) of the Government Code.

(Added by Stats. 2021, Ch. 116, Sec. 260. (AB 131) Effective July 23, 2021.)

10441. (a) Child development contractors are encouraged to develop and maintain a reserve within the child development fund, derived from earned but unexpended funds. Child development contractors may retain all earned funds. For purposes of this section, "earned funds" means those funds for which the required number of eligible service units have been provided.

(b) (1) Earned funds shall not be expended for activities proscribed by Section 10398. Earned but unexpended funds shall remain in the contractor's reserve account within the child development fund and shall be expended only by direct service child development programs that are funded under contract with the department.

(2) A contractor may retain a reserve fund balance, separate from the reserve fund retained pursuant to subdivision (c) or (d), equal to 15 percent of the sum of the maximum reimbursable amounts of all contracts to which the contractor is a party, or two thousand dollars (\$2,000), whichever is greater. This subparagraph applies to direct service child development contracting agencies that are funded under contract with the department.

(c) Notwithstanding subdivisions (a) and (b), a contractor may retain a reserve fund balance for a resource and referral program, separate from the balance retained pursuant to subdivision (b) or (d), not to exceed 3 percent of the contract amount. Funds from this reserve account may be expended only by resource and referral programs that are funded under contract with the department.

(d) Notwithstanding subdivisions (a) and (b), a contractor may retain a reserve fund balance for alternative payment model and certificate childcare contracts, separate from the reserve fund retained pursuant to subdivisions (b) and (c). Funds from this reserve account may be expended only by alternative payment model and certificate childcare programs that are funded under contract with the department. The reserve amount allowed by this subdivision shall not exceed either of the following, whichever is greater:

(1) Eight percent of the sum of the parts of each contract to which that contractor is a party that is allowed for administration pursuant to Section 10302 and that is allowed for supportive services pursuant to the contract.

(2) One thousand dollars (\$1,000).

(e) Each contractor's audit shall identify any funds earned by the contractor for each contract through the provision of contracted services in excess of funds expended.

(f) Any interest earned on reserve funds shall be included in the fund balance of the reserve. This reserve fund shall be maintained in an interest-bearing account.

(g) Moneys in a contractor's reserve fund may be used only for expenses that are reasonable and necessary costs as defined in subdivision (n) of Section 10213.5.

(h) Any reserve fund balance in excess of the amount authorized pursuant to subdivisions (b), (c), and (d) shall be returned to the department pursuant to procedures established by the department.

(i) Upon termination of all child development contracts between a contractor and the department, all moneys in a contractor's reserve fund shall be returned to the department pursuant to procedures established by the department.

(j) Expenditures from, additions to, and balances in, the reserve fund shall be included in the contracting agency's annual financial statements and audit.

(Amended by Stats. 2022, Ch. 62, Sec. 26. (AB 210) Effective June 30, 2022.)