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HEALTH AND SAFETY CODE - HSC

DIVISION 25. HEALTH AND WELFARE AGENCY—DIRECT SERVICE CONTRACTS REFORM ACT [38000 - 38041] (

Division 25 added by Stats. 1980, Ch. 990.)

CHAPTER 5. Direct Service Contract Audit Requirements [38040 - 38041] (Chapter 5 added by Stats. 1982, Ch. 1462, Sec. 3.)

38040. 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 "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" 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 provided by a state agency pursuant to Chapter 4 (commencing with Section 38030).
- (f) "Nonprofit organization" means an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 that 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.

(Amended by Stats. 2003, Ch. 185, Sec. 4. Effective January 1, 2004.)

38041. (a) Annually, there shall be a single independent financial and compliance audit of nonprofit 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. 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 such audit may be included in direct service contracts up to the proportionate amount that the contract represents of the contractor's total revenue.

(b) A nonprofit organization shall have responsibility for financial and compliance audits of the nonprofit organization and any subcontractors. 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.

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

(2) The state is responsible for 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.

(Added by Stats. 1982, Ch. 1462, Sec. 3.)