

Section 5000

Visits, Reviews and Audits

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Visits, Reviews and Audits

5100 Visit Prior to Approval

Prior to approving an organization's application for participation, Texas Department of Agriculture (TDA) staff will conduct a visit to:

- Evaluate the organization's management ability and the resources (for example, staff) that it has reserved for its CACFP operation;
- Verify the information submitted on an application;
- Determine if the organization is eligible to receive reimbursement for the month prior to agreement execution; and
- Provide technical assistance as appropriate.

Inconsistencies between TDA's observations during the visit and the information that the organization submitted may result in denial of the application, and in some cases could result in placement of the organization and responsible principal(s)/responsible individual(s) in the serious deficiency process.

5200 90-day Technical Assistance Visit

Each new CE will receive a visit from an Educational Service Center (ESC) representative within its first 90-days of Program operation. This visit is to allow the CE an opportunity to ask any questions it may have related to the operation of the Program and receive guidance on Program requirements. This visit will also allow the ESC representative to review the documentation the CE has on file and advise the CE of any corrections it needs to make to the documentation and/or procedures so the CE may come into compliance or remain in compliance.

The 90-day technical assistance visit can be a scheduled or unscheduled visit, and all visits will be documented with a copy given to the CE.

5300 Administrative Reviews

TDA conducts administrative reviews of contracting entities' (CEs) Program operations to:

- Ensure the operation complies with Program requirements; and
- Assist and advise a CE that has questions about the Program operations or programs it operates.

The administrative review includes an observation of a meal service and an examination of Program records. The CE must allow the USDA, TDA, and any of their representatives to inspect its site and/or sponsored sites and examine and copy records during normal business hours.

On or around November first of each year TDA will send an automated email via TX-UNPS to each CE that will be included in the review schedule that Program Year (PY) and will be receiving an announced review.

Generally, TDA will notify a CE of the specific date(s) of an announced review at least two weeks prior to the beginning of an administrative review or follow-up administrative review. However, TDA does conduct unannounced reviews and CEs will not be given prior notification of an unannounced review.

5310 Frequency and Scope

Independent centers will, at minimum, be reviewed as follows:

- Within the first 12 months of Program operation
- At least once every three years
- Independent centers that have been determined seriously deficient at any time, or determined to be at risk for Program non-compliance will be reviewed more frequently

Sponsoring organizations will, at minimum, be reviewed as follows:

- 1-100 Sites – once every three years
- More than 100 sites – once every two years
- New sponsoring organizations with 5 or more sites – within the first 90 days of Program operation
- New sponsoring organizations with less than 5 sites - within the first 12 months of Program operation
- Sponsoring organizations that have been determined seriously deficient at any time, or determined to be at risk for Program non-compliance will be reviewed more frequently

Depending on the size of the CE's operation reviews could span a period of two days to two weeks or more. TDA will conduct reviews during the CE's normal hours of operation.

TDA will review a "test month" and review all records for that month, expanding the review to include other months if needed.

Financial records for the prior PY, and for the current PY through the month of the review, will be reviewed as well.

5320 Entrance Conference

Upon arrival at the CE's location, the TDA reviewer(s) will conduct an entrance conference with an Authorized Representative (person(s) designated to act on the organizations behalf per the *Certificate of Authority for External Users* (FND-101).)

During the entrance conference the TDA reviewer(s) will:

- Explain how the review will be conducted;
- Gather records and complete a records checklist with the CE. **Missing records/information will be requested and the CE will have until the exit conference to provide missing records/information);** and
- Answer any questions the CE may have regarding the review process or the Program.

5330 Meal Service Observation

During the review the TDA reviewer(s) will observe a meal service. The observation of the meal service will inform TDA if the CE or sponsored site is:

- Complying with its approved meal service times (beginning and ending);
- Preparing meal production records in accordance with record keeping requirements;
- Taking a point of service meal count;
- Serving a reimbursable meal; and
- Complying with civil rights requirements.

5340 Review of Records

TDA will inspect the CE's Program documentation during its review to assess compliance with Program requirements. For a list of Program documentation see Section 4000, *Managing the Program*, Item 4500, *Program Documentation*.

Thirty-five calendar days prior to an announced administrative review the Community Operations Field office may mail an appointment letter and request that the CE copy and mail specific documentation to the Community Operations Field office two weeks prior to the onsite review. This is an option TDA may utilize to conduct a limited desk review of documentation prior to the actual onsite visit. It will still be necessary for the CE to have the originals of the copied documents available at the onsite review.

During the review the TDA reviewer(s) will attempt to resolve any discrepant information and obtain any missing or incomplete records; however, if the CE does not provide records by the exit conference it could result in disallowances of meals or unallowable costs, as well as possible placement in the serious deficiency process.

NOTES:

- Costs incurred from making copies for the administrative review are considered allowable administrative costs, if they are in the CE's approved budget.
- Records requested for an administrative review could include records for the three years prior to the month of the review.

5350 Exit Conference

Before concluding the review the TDA reviewer(s) will conduct an exit conference with an Authorized Representative (person(s) designated to act on the organizations behalf per the *Certificate of Authority for External Users* (FND-101).)

During the exit conference the TDA reviewer(s) will provide the CE with a *preliminary** review report and:

- Request clarification for any discrepant information not previously discussed;
- Explain any non-compliances found;
- Provide technical assistance in the areas of non-compliance as well as any areas requested by the CE; and
- Answer any questions the CE may have.

The TDA reviewer will not be able to tell the Authorized Representative the amount of any disallowances, if applicable or if the CE has been determined seriously deficient. The final review results will be provided in a *Notification of Review Findings* once all information is compiled.

The CE should use the preliminary review report to begin immediate corrective action in areas identified as non-compliant.

***Preliminary review findings are subject to change upon further review of noted observations, review of scanned or copied information and evaluation of any additional documentation provided to the TDA reviewer(s) at the exit conference.**

5360 Notification of Review Findings

After all information has been compiled the CE will receive a notification of review findings. This notification will explain the areas of non-compliance, if any, and request appropriate corrective action from the CE. In addition, if any disallowances are being taken, or unallowable costs were determined these will be included in the notification as “adverse actions”. If there are any adverse actions taken the notification will include appeal rights. See Section 8000, *Adverse Action and Appeals*, for additional information.

If the CE is determined seriously deficient the notification will include this information. See Section 10000, *Serious Deficiency* for information on the serious deficiency process.

5370 Corrective Action

If the CE is determined to be non-compliant with Program requirements it will be required to correct those non-compliances and submit a corrective action plan (CAP). The CAP will indicate the correction(s) made, including the date and document the procedures and processes the CE put in place to ensure the non-compliances do not occur again in the future. The CAP will be received and submitted by the CE using the corrective action document (CAD) tool in TX-UNPS.

Typically the CE will be given thirty days to submit its CAP. In some cases the CE will be given less than thirty days for corrective action. Failure to correct non-compliances and submit an acceptable CAP could result in placement in the serious deficiency process. See Section 10000, *Serious Deficiency* for information on the serious deficiency process.

5380 Site Reviews

Reviews of sponsored sites are conducted to determine a sponsor’s ability to administer the Program. This is accomplished by reviewing the site’s compliance with Program requirements, including a meal service observation, review of records and record keeping requirements, review of training documentation, review of monitoring documentation, and interviewing site staff.

5400 Periodic Visits

TDA may conduct a periodic visit of CEs that have been determined to be at risk of Program noncompliance. During periodic visits, TDA provides technical assistance to improve a CE's management ability and reduce the risk of Program noncompliance that could result in adverse action, including placement in the serious deficiency process and/or termination of a CE's Permanent Agreement. See Section 10000, *Serious Deficiency* for information on the serious deficiency process.

TDA has established specific criteria for the uniform selection of CEs that may receive a visit. The criteria evaluate Program operation requirements at both the central and individual site levels.

TDA applies these criteria to a CE's application, visit prior to approval, previous administrative and site reviews, and technical assistance visits. The purpose of this evaluation is to identify error-prone CEs and sites, and reduce the risk of Program noncompliance.

See below for an explanation of the specific criteria.

5410 Administrative Operations

When selecting CEs for periodic visits, TDA uses (at minimum) the following criteria to evaluate a CE's administrative operations:

- Ability to complete critical elements of a Program application, for example, budget, VCA documentation, procurement, monitoring, and training;
- Submittal of an adjusted claim for more than three months during a PY; and
- Repeated submittal of claims that report high or perfect meal counts and attendance (meaning children are never absent).

5420 Site Level Operations

When selecting sites for periodic visits, TDA uses the following criteria to evaluate site level operations (this list is not all inclusive):

- Most or all children have perfect attendance;
- The site consistently claims same number of meals and snacks each day (block claiming);
- A quantity of meals are claimed in excess of licensed capacity; and
- Meals are claimed in excess of observed attendance.

5500 Audits

Audits are conducted to determine whether:

- Financial operations are conducted properly;
- Expenditures of Program funds comply with applicable laws and regulations;
- Internal procedures meet the objectives of federally assisted programs;
- Financial statements are correct; and
- Financial reports contain accurate information.

5510 General Policy

Non-Federal entities (States, federally recognized Indian Tribes, local governments, nonprofit organizations and for-profit organizations) that expend \$750,000 or more during their fiscal year in Federal awards must have an audit conducted for that year. CEs will identify their fiscal year and the source and amount Federal funds they expect to expend that FYE on the Annual Audit screen in TX-UNPS, during initial application and each year after.

CEs subject to audit must be audited on a single (organization-wide) audit basis by independent auditors, and must comply with the requirements found in 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

EXCEPTION: If a CE expends Federal awards under only one Federal program (such as CACFP) it may obtain a Program-specific audit. Auditors must conduct Program-specific audits in accordance with generally accepted government auditing standards (GAGAS) and the program-specific audit guide. Reference 2 CFR 200 for additional information.

Organizations subject to the audit requirement must obtain the audits on a yearly basis unless they are a:

- State, local government, or Indian Tribe that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits biennially. This requirement must still be in effect for the biennial period under audit.
- Nonprofit organization that has obtained biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995 (30-month period). All consecutive audits obtained during this 30-month period must have been on a biennial basis. Any interruption in the biennial process during this 30-month period disqualifies the CE from being able to obtain a biennial audit for fiscal years beginning after June 30, 1996; or

- If biennial audits are conducted, they must include both years. However, if an organization is subject to the audit requirements and they have a financial audit performed annually, they must also obtain a single audit on an annual basis. CEs that are exempt from the single audit requirement remain subject to any audit requirements prescribed by State or local laws or regulations.

5520 Scope of Audit

Audit(s) must be performed in accordance with GAGAS and must cover the entire operations of the CE.

The auditee must prepare:

- Financial statements
- Schedule of expenditures of Federal Awards
 - List of individual Federal programs by Federal Agency
 - The name of the pass-through entity and identifying number assigned to that pass-through entity
 - Total Federal awards expended for each individual Federal program and the Catalog of Federal Domestic Assistance (CFDA) number or other number when the CFDA number is not available
 - Total amount provided to subrecipients from each Federal program
- Summary schedule of prior audit findings
- Audit findings (schedule of findings and questioned costs), to include:
- Corrective action plan, if applicable

The auditor must prepare:

- An auditor's report which includes
 - An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in accordance with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is fairly stated in all material respects in relation to the financial statements as a whole.
 - A report on internal control over financial reporting and compliance with provisions of the laws, regulations, contracts and award agreements, noncompliance with which could have a material effect on the financial statements.
 - A report on the compliance for each major program and a report on internal control over compliance.
 - A schedule of findings and questions costs.

- Audit Findings
 - Significant deficiencies and material weaknesses in internal controls over major programs and significant instances of abuse relating to major programs.
 - Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program.
 - Known questioned costs that are greater than \$25,000 for a type of compliance requirement for a major program.
 - Known questioned costs that are greater than \$25,000 for a Federal program which is not audited as a major program.
 - The circumstances concerning why the auditor's report on compliance for each major program is other than an unmodified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs.
 - Known or likely fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs.
 - Instances where the results of audit follow up procedures disclosed that the summary schedule of prior audit findings materially misrepresents that status of any prior audit findings.

IMPORTANT: The lists above are not all inclusive. Reference 2 CFR §200.500 for complete requirements.

5530 Compliance with Audit Requirements

Contracting entities that are not exempt from the audit requirement must arrange for an audit to be conducted by a/an:

- Independent auditor;
- Local government accountant;
- Independent certified public accountant; or
- Independent public accountant.

Auditors must have been licensed on or after December 31, 1970, and the license or certificate must still valid.

When seeking auditing services procurement requirements must be followed (reference Section 7000, *Financial Management*), and the CE must request a copy of the audit organization's peer review report.

Audits must be submitted as described below within 30 days of receipt from the auditor or nine months after the end of the audit period, **whichever comes first**.

Based on the FYE date provided information provided, TDA will send a courtesy notification to the CEs of the due date for their audit using nine months after the end of the audit period. However, failure to receive such notification does not relieve a CE of the responsibility to submit an audit if required. Additionally, this notification does not extend the submission date for those who receive the audit **prior** to nine months after the end of the audit period.

Nonprofit CEs

Audits from nonprofit organizations must be submitted to the Federal Audit Clearinghouse at <https://harvester.census.gov/facweb/> and a copy must be submitted to TDA at the following address:

Texas Department of Agriculture
Attn: Business Operations – Audits
P.O. Box 12847
Austin, Texas 78711

The copy can be submitted on paper, CD, or email.

If submitting by email, send to: CACFP.Bops@texasagriculture.gov. Include Audit – organization name and CE ID# in the subject line.

The CE should review and accept the completed audit before submitting it to the clearinghouse and TDA.

If the audit is organization-wide but the CACFP is not specifically audited, the CE must submit a letter from the auditor stating that the Program was included in the random sampling process but was not selected for audit.

For-profit CEs

Audits from for-profit organizations must be submitted to TDA at the following address:

Texas Department of Agriculture
Attn: Business Operations – Audits
P.O. Box 12847
Austin, Texas 78711

The audit can be submitted on paper, CD, or email.

If submitting by email, send to: CACFP.Bops@texasagriculture.gov. Include Audit – organization name and CE ID# in the subject line.

The CE should review and accept the completed audit before submitting it to TDA.

If the audit is organization-wide but the CACFP is not specifically audited, the CE must submit a letter from the auditor stating that the program was included in the random sampling process but was not selected for audit.

5540 Sanctions for Noncompliance

TDA will place a CE in the serious deficiency process, if the:

- Audit is not submitted to the clearinghouse by the due date (does not apply to for-profit CEs);
- Audit is not submitted to TDA by the due date;
- CE submits an audit that does not meet requirements. TDA will notify the CE in writing that the audit is unacceptable. The CE must submit an acceptable audit within 30 calendar days of the date of the notice.

If TDA determines that extenuating circumstances resulted in the CE's inability to submit an acceptable audit, TDA may conduct an audit, either directly or through contract with a third party. The CE must pay all costs associated with such an audit.

5550 Reimbursement for Audits

TDA reimburses CEs the appropriate portion of the cost of obtaining an organization-wide or program-specific audit. The monies that TDA allots will be based on the funding provided by USDA for this purpose and the percentage of CACFP funds that the CE receives in relation to all other funding sources. If a CE has evidence confirming that the CACFP portion of an organization-wide audit had a higher actual cost, the CE may request additional reimbursement. However, under no condition will TDA fund 100 percent of the cost of an organization-wide audit.

A CE must submit a copy of paid audit invoice to receive payment. The CE cannot include audit costs on a claim for reimbursement or in their budget. TDA only reimburses those CEs that have a Permanent Agreement, and were required to submit an audit.

CEs will not be reimbursed for audits that were:

- Not properly procured
- Not required by regulation or policy, for example audits obtained by CEs that expended less than \$750,000 in Federal awards
- Required but were not conducted according to regulation or policy

After all requests for reimbursement have been received for a specific fiscal year, TDA will determine whether sufficient funds are available to pay 100 percent of the CACFP portion of all eligible audits. If sufficient funds are not available, TDA will reimburse each CE a pro rata share of their audit costs. TDA will determine the pro rata share by dividing the total amount of available audit funds by the total amount of audit funds that were requested. CEs will then be paid that percentage of their audit costs.

EXAMPLE: If available audit funds total \$250,000, and TDA receives requests that total \$400,000, then each CE would be reimbursed $\$250,000 \div \$400,000$, or approximately 63 percent of their eligible audit cost.

5560 Other Audits

TDA retains, both for itself and the federal government, the right to conduct additional audits as necessary.

If serious deficiencies such as fraud or misuse of funds occur and corrective action would not be practical, TDA will immediately terminate or amend the CE's Permanent Agreement to eliminate its participation in the CACFP.