

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY.**

**DEPARTMENT** \_\_\_\_\_  
**BOARD/COMMISSION** \_\_\_\_\_  
**PERSON COMPLETING THIS STATEMENT** \_\_\_\_\_  
**TELEPHONE NO.** \_\_\_\_\_ **EMAIL** \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

**TITLE OF THIS RULE** \_\_\_\_\_

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes                      No
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes                      No
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes                      No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:  
(a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
  
 Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
  
 Total \_\_\_\_\_

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
  
 Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
  
 Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes      No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

## **Statement of Necessity and Rule Summary Audit Guidelines**

### **Statement of Necessity**

The Department of Human Services (DHS) issues a comprehensive update for Audit Guidelines. The last major update was in 1998 and since that time multiple changes have been made to federal and state law that need to be placed in a single reference resource. Providers and their auditors may rely on the information in this rule to know what information to submit to DHS.

### **Summary**

DHS provides both state and federal funding, as well as non-cash resources and Medicaid reimbursements to organizations. DHS is required to adhere to Federal and State statutes, as well as demonstrate effective internal control. The same requirements apply to organizations who receive funding from DHS. The guidelines in this rule comply with 31 United States Code (U.S.C.) 503, Federal Regulations found at Code of Federal Regulations (C.F.R.) 200 and following which details the “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards”, and the most recent U.S. Government Accountability Office Auditing Standards along with several state laws.

This rule details audit types and timelines for providers, including the thresholds applicable, compliance requirements, and late submissions. It is the responsibility of the provider to select an auditor and to pay for the audit. Audits must be performed by independent Certified Public Accountants (CPAs) currently holding an annual permit to practice from the Arkansas State Board of Public Accountancy (ASBPA), maintain professional proficiency through continuing education and other requirements for continuing licensure. Auditors of nonprofit organizations' activities and funding should have training related to that environment, and any other specific or unique activities audited.

DHS will require provider contact information and a management response letter detailing audit findings and remediation. Specific schedules regarding state and federal governmental assistance must be provided with required details, including the specifics for Medicaid funding. Finally, the guidelines for funding agreements are detailed in the rule to assist organizations subject to this rule.

## NOTICE OF RULEMAKING

The Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§ 20-76-201, 20-77-107, and 25-10-129,

DHS issues Audit Guidelines for organizations receiving funding and resources from DHS. This rule provides a single reference resource with authorities for providers and their auditors with details of audit types and timelines, including the thresholds applicable, compliance requirements, and late submissions. DHS will require provider contact information and a management response letter detailing audit findings and remediation and specific schedules regarding state and federal governmental assistance, including the specifics for Medicaid funding. The guidelines for funding agreements are detailed in the rule to assist organizations subject to this rule. This rule has no fiscal impact, and the projected effective date is July 1, 2024.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Policy and Rules, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at [ar.gov/dhs-proposed-rules](https://ar.gov/dhs-proposed-rules). Public comments must be submitted in writing at the above address or at the following email address: [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov). All public comments must be received by DHS no later than **May 13, 2024**. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Policy and Rules at 501-320-6428. The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed, and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color, or national origin. 4502206215

John Parke, Director  
Office Payment Integrity and Quality Assurance

## Audit Guidelines

### Summary

Arkansas Department of Human Services (DHS) provides both state and federal funding, as well as non-cash resources. DHS is required to adhere to Federal and State statutes, as well as demonstrate effective internal control. The same requirements also apply to organizations who receive funding from DHS (2 C.F.R. § 200.332(f) Requirements for pass-through entities). Audits will be reviewed to verify providers' compliance with program spending requirements.

### Audit Types and Timelines

Nonprofit organizations receiving at least 20% (twenty percent) of the single audit (2 C.F.R. § 200.501(b) Audit requirements) threshold for Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance") (2 C.F.R. Part 200), currently one hundred fifty thousand dollars (\$150,000), within a fiscal year are required to furnish an audit. This audit must be submitted to DHS within one hundred twenty (120) days of the end of that fiscal year and must be compliant with Generally Accepted Government Auditing Standards (2 C.F.R. § 200.1). The audit must also include DHS requirements (see Special Requirements for Audits Submitted to DHS).

When a nonprofit or for-profit organization's funding or expenditure levels exceeds the Uniform Guidance threshold (currently seven hundred fifty thousand dollars (\$750,000)), the provider must submit a single audit to the Federal Audit Clearinghouse (2 C.F.R. § 200.512(d) Submission to FAC). These same providers must also submit a copy to DHS and include the DHS requirements. Such an audit must be submitted within nine (9) months of the organization's fiscal year end (2 C.F.R. § 200.512(a)(1) Report submission).

When determining funding levels, non-cash resources (2 C.F.R. § 200.502(g) Basis for determining Federal awards expended: Valuing non-cash assistance) received by an organization should be included in the total. Medicaid funding is not considered federal pass-through funding and is not included when calculating funding levels under these Audit Guidelines. To ensure compliance, organizations may request a confirmation of funding amounts provided by DHS prior to submitting an audit.

### Late Submissions

In some cases, DHS may grant an extension to organizations for audit submission. However, organizations who are habitually late in submitting required audits or who fail to submit required audits are subject to sanctions and loss of funding (2 C.F.R. § 200.339 Remedies for non-compliance).

## Audits and Auditors

### Auditor Qualifications

Audits shall be performed by independent Certified Public Accountants (CPAs) currently holding an annual permit to practice (U.S. Government Accountability Office Yellow Book 6.04 Requirements: Licensing and Certification) from the Arkansas State Board of Public Accountancy (ASBPA).

Partnerships and corporations of CPAs who are practicing public accounting must comply with the ASBPA with respect to those members, stockholders, and employees required to be CPAs and to hold a permit to practice.

Auditors must maintain professional proficiency through continuing professional education (CPE). Auditors performing audits in accordance with Uniform Guidance and Generally Accepted Government Auditing Standards (GAGAS) must meet required CPE requirements for licensure (U.S. Government Accountability Office Yellow Book Chapter 4 Continuing Professional Education). Auditors of nonprofit organizations' activities and funding should receive training related to that environment and any other specific or unique activities audited.

### Auditor Selection

It is the responsibility of the provider to select an auditor and to pay for the audit (2 C.F.R. § 200.508 Auditee responsibilities).

### Costs of Audits

Organizations and auditors must take care to ensure that the type of audit performed is appropriate for the level of expenditure for that year.

Organizations and auditors should consult Uniform Guidance (2 C.F.R. 200.425 § Audit services) for more clarification on this subject.

## Special Requirements for Audits Submitted to DHS

DHS requires some additional information. The DHS requirements listed below are not all-inclusive. Existing and future contracts may contain additional audit requirements.

### Supplemental Data Sheet

DHS requires a supplemental data sheet which includes the following information: entity's full name, address, employer identification number, phone number, name of Director, name of contact person, and the cost of the audit.

### Management Letter

A management response letter to any findings or recommendations is also required to be included with the report.

### Schedule of State Assistance

A Schedule of State Assistance must be included with each single audit and shall show the total revenues and expenditures for each program, as well as the state department that is furnishing the funding. Medicaid funding, if any, must be included in a footnote on the Schedule of Federal Assistance.

### Schedule of Governmental Assistance

A Schedule of Governmental Assistance must be included in both GAGAS audits and single audits. It must show revenues and expenditures for each program, Federal and State; the Federal or State department (or both) furnishing the funding; and Catalogue of Federal Domestic Assistance



(CFDA) number, if applicable. Medicaid funding, if any, should be included in a footnote on the schedule.

### Funding Agreements

Organizations' funding agreements may include specific requirements which must also be included. Some of the most common are listed below:

- **Units of Service:**  
The audit report shall reflect the units of service for each contract or agreement that contains such a requirement. If more than one (1) contract or agreement for the same program was in place in the provider's fiscal year, each contract or agreement must be accounted for separately, showing applicable dates of each.
- **Comparison:**  
A comparison of budget-to-actual revenues and expenditures shall be included if such a schedule is required as a condition of funding.
- **Family Day Care Home Sponsors:**  
Audit reports shall include a schedule showing a comparison of the actual expense, approved budget, and the amount allowable using applicable rates. The lowest of the three (3) expenses is the amount allowed for administrative expenses.
- **Mental Health Organizations:**  
Audit reports shall include an auditor's report expressing an opinion on the capability of the auditee's statistical information system to reliably document and report staff activities, units of service, and recipients of services data. The auditor's report shall also express an opinion on the fairness of the presentation of the number of direct clients served, number of direct clients and community and education units of service provided, and the cost per unit of service.

### DHS Contact and Submission

Audit reports, requests for confirmation, or any other inquiry or document should be submitted to DHS electronically in .pdf format to: [contactaudit@dhs.arkansas.gov](mailto:contactaudit@dhs.arkansas.gov)

The mailing address is:

Audit Coordination Unit – Audit Coordinator  
Department of Human Services  
P.O. Box 1437 - Slot 270  
Little Rock, AR 72203-1437

The Audit Section main number is (501) 682-6307.

## **2 CFR 200.332**

This document is current through the Mar. 5, 2024 issue of the Federal Register, with the exception of the amendments appearing at 89 FR 15671 and 89 FR 15744.

*Code of Federal Regulations > Title 2 Grants and Agreements > Subtitle A — Office of Management and Budget Guidance for Grants and Agreements > Chapter II — Office of Management and Budget Guidance > Part 200 — Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards > Subpart D — Post Federal Award Requirements > Subrecipient Monitoring and Management*

### **§ 200.332 Requirements for pass-through entities.**

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All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

**(1) Federal award identification.**

- (i) Subrecipient name (which must match the name associated with its unique entity identifier);
- (ii) Subrecipient's unique entity identifier;
- (iii) Federal Award Identification Number (FAIN);
- (iv) Federal Award Date (see the definition of Federal award date in § 200.1 of this part) of award to the recipient by the Federal agency;
- (v) Subaward Period of Performance Start and End Date;
- (vi) Subaward Budget Period Start and End Date;
- (vii) Amount of Federal Funds Obligated by this action by the passthrough entity to the subrecipient;
- (viii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current financial obligation;
- (ix) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;
- (x) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
- (xi) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;

- (xii) Assistance Listings number and Title; the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listings Number at time of disbursement;
  - (xiii) Identification of whether the award is R&D and
  - (xiv) Indirect cost rate for the Federal award (including if the de minimis rate is charged) per § 200.414.
- (2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;
- (3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;
- (4)
  - (i) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government. If no approved rate exists, the pass-through entity must determine the appropriate rate in collaboration with the subrecipient, which is either:
    - (A) The negotiated indirect cost rate between the pass-through entity and the subrecipient; which can be based on a prior negotiated rate between a different PTE and the same subrecipient. If basing the rate on a previously negotiated rate, the pass-through entity is not required to collect information justifying this rate, but may elect to do so;
    - (B) The de minimis indirect cost rate.
  - (ii) The pass-through entity must not require use of a de minimis indirect cost rate if the subrecipient has a Federally approved rate. Subrecipients can elect to use the cost allocation method to account for indirect costs in accordance with § 200.405(d).
- (5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and
- (6) Appropriate terms and conditions concerning closeout of the subaward.
- (b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:
  - (1) The subrecipient's prior experience with the same or similar subawards;
  - (2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F of this part, and the extent to which the same or similar subaward has been audited as a major program;

- (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
- (4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).
- (c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in § 200.208.
- (d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:
- (1) Reviewing financial and performance reports required by the pass-through entity.
  - (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward.
  - (3) Issuing a management decision for applicable audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by § 200.521.
  - (4) The pass-through entity is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving crosscutting findings. If a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (e.g., has been debarred or suspended), the pass-through entity may rely on the subrecipient's cognizant audit agency or cognizant oversight agency to perform audit follow-up and make management decisions related to cross-cutting findings in accordance with section § 200.513(a)(3)(vii). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.
- (e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:
- (1) Providing subrecipients with training and technical assistance on program-related matters; and
  - (2) Performing on-site reviews of the subrecipient's program operations;
  - (3) Arranging for agreed-upon procedures engagements as described in § 200.425.

(f) Verify that every subrecipient is audited as required by Subpart F of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in § 200.501.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the passthrough entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients as described in § 200.339 of this part and in program regulations.

## Statutory Authority

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*[Authority Note Applicable to 2 CFR Subtit. A, Ch. II, Pt. 200](#)*

## History

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[[78 FR 78590](#), 78608, Dec. 26, 2013; [85 FR 49506](#), 49557, Aug 13, 2020; [86 FR 10439](#), 10440, Feb. 22, 2021]

Annotations

## Notes

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### [EFFECTIVE DATE NOTE:

[78 FR 78590](#) , 78608, Dec. 26, 2013, added Part 200, effective Dec. 26, 2013; [85 FR 49506](#), 49557, Aug 13, 2020, amended this section, effective Nov 12, 2020; [86 FR 10439](#), 10440, Feb. 22, 2021, revised paragraph (d)(4), effective Feb. 22, 2021.]

## Research References & Practice Aids

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### Hierarchy Notes:

*[2 CFR Subtit. A, Ch. II, Pt. 200](#)*

LEXISNEXIS' CODE OF FEDERAL REGULATIONS

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