

Chapter 800. GENERAL ADMINISTRATION

The Texas Workforce Commission proposes amendments to Subchapter H §§800.301 - 800.307 and new §800.308, relating to Agency Monitoring Activities.

The Texas Workforce Commission proposes amendments to Subchapter I §§800.351 - 800.355, 800.357 - 800.359 and new §800.360, relating to Subrecipient and Contract Service Provider Monitoring Activities.

Concurrent with this proposal, the Commission proposes the review of Subchapters H and I of Chapter 800 relating to Monitoring in accordance with Texas Government Code §2001.039.

The term "Agency" when used in this rule refers to the state agency which operates the integrated workforce development system. The term "Commission" is used to refer to the three member governance body authorized to adopt rules by Texas Labor Code §301.061.

Purpose: The purpose of the amendments is to include in the rule the monitoring requirements imposed by the Workforce Investment Act (WIA) (29 U.S.C.A. §§2801 et seq.), and to clarify the use of some of the terms in the rule.

Background: Section 800.302 is amended to clarify the definitions of "contract service provider" and "subrecipient," and these terms, as newly defined, are used throughout Subchapters H and I. The definitions of Board and Commission are deleted since the terms will be defined in §800.2. Section 800.304 describes the requirement that records involving the use of funds administered by the Agency be made available by Boards, other subrecipients and contract service providers to the Agency. Record-keeping and documentation requirements are based on OMB Circular A-133 and the Agency's Financial Grants and Contracts Manual. Section 800.306 describes the fiscal monitoring activities of the Agency including evaluation of compliance with appropriate uniform administrative requirements, cost principles. The rules also include provisions regarding compliance with requirements of WIA cost categories and cost limitations. Section 800.308 describes the Agency resolution process including the applicability of sanctions. Section 800.353 describes the requirements for access to records. Section 800.354 describes subrecipient and contract service provider monitoring requirements. Section 800.355 describes required risk assessment activities. Section 800.356 describes the monitoring plan. Section 800.357 lists the required controls over monitoring. Section 800.358 is revised to remove an unnecessary provision and describes the independent audits requirements. Section 800.359 describes reporting and resolution requirements. Section 800.360 lists the independent audit requirements.

Randy Townsend, Director of Finance, has determined that for each year of the first five years the rule will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rule;

There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule;

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule;

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rule; and

Joann Benton, Director of Contract Monitoring Services, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the sections will be a uniform and comprehensive process used by the Agency, its Boards, subrecipients, and contract service providers to help ensure the accountability of program funds and outcomes, including the activities funded under the Workforce Investment Act.

Randy Townsend, Director of Finance, has determined that for each year of the first five years the rules will be in effect the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules;

There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules;

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules;

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules; and

There are anticipated economic costs to persons required to comply with the rule. Those costs are estimated as those applicable to the small businesses referenced herein.

Mr. Townsend has determined that there will be no fiscal impact to the state for each year of the first five years the rules will be in effect. The Agency concludes that there will be no net cost to local governments for each year of the first five years the rules will be in effect. That is, if a Board is to be considered a unit of local government in this context (as is referenced in §33 of Article IX, H.B. 1, General Appropriations Act, Seventy-fifth Legislature, Regular Session), and if there stands to be some cost of compliance, then such cost of compliance will be an allowable portion of relevant federal or state grant-in-aid or contract assistance for which the monitoring is required. Mr. Townsend also estimates that there will be no cost reductions to the state and to local governments, no net effect on revenues as a result of enforcing and administering the rules, and no foreseeable implications relating to costs or revenues to the state or to local governments.

There is anticipated economic cost to small businesses and individuals required to comply with these proposed rules. The costs to small businesses are set forth herein.

Our analysis concludes that there would be definite and possibly significant costs of compliance for small businesses. While §2006.002 does not define "adverse economic effect," if the definition of "adverse economic effect" is presumed to be, or includes, significant costs of compliance, then there may be adverse economic effects. Our reasoning is based on the attached schedule of estimated costs of compliance prepared by Monitoring staff. However, as noted above, it is important to take into consideration that any costs of compliance with a monitoring requirement will be an allowable portion of relevant federal or state grant-in-aid or contract assistance for which monitoring is required. Therefore, while there would be definite and possibly significant costs of compliance, these will not constitute net costs. And, while these costs may constitute adverse economic effects, it is unlikely that they will do so.

The schedule of estimated costs of compliance does not adhere exclusively to the distinction in §2006.002 of "small business" versus presumably a business that is not "small," and also with regard to "...the cost of compliance of the largest businesses affected by the rule...." Therefore, not being given any reason for another conclusion, the Commission has assumed that the costs of compliance for a small business would largely be the same as for any business that is not "small." In the schedule of estimated costs prepared by Monitoring staff, a distinction is drawn to a business that is not "small" only by inference, in the conclusion that costs would increase relative to the number of programs administered and the volume of activity within each program (the inference being that the more programs administered and the larger the volume of activity within the program(s), the greater the likelihood that the business would not be "small.") While §2006.002(a) requires that an agency reduce an adverse effect on small business caused by a rule it is considering adopting (if it is feasible to do so), it is a materially relevant factor that the requirement for a monitoring program is a federal requirement (as referenced above), which is relevant to the preponderance of Commission programs.

The estimated costs for small businesses are estimated as follows:

1. The costs associated with coordinating and responding to Commission Monitoring Activities is estimated as \$600 based on the following estimated expenses:

Drafting and responding to correspondence taking approximately .5 hours at a rate of \$22/hour and 1 hour at a rate of \$15/hour;

Participating in entrance and exit conferences taking approximately 1 hour at a rate of \$22/hour and 2 hours at a rate of \$152/hour;

Pulling information for the review team taking approximately 4 hours at a rate of \$15/hour;

Participating in interviews and technical discussions taking approximately 3 hours at a rate of \$22/hour and 15 hours at a rate of \$15/hour;

Refiling information pulled for the review team taking approximately 4 hours at \$15/hour; and

Preparing responses to draft reports taking approximately 1 hour at \$22/hour and 2 hours at \$15/hour.

Indirect expenses are estimated at approximately 15% of the total of the specified expenses referenced in this paragraph 1.

2. The costs associated with developing, conducting, and maintaining a monitoring function to review contractor activities are estimated as approximately \$45,000 based on the following estimated time and rates of pay:

Administering monitoring functions taking approximately 0.1 full-time equivalent position at a rate of \$28/hour;

Developing and preparing a risk assessment tool 0.025 full-time equivalent position at a rate of \$19/hour;

Developing and preparing a monitoring plan 0.05 full-time equivalent position at a rate of \$19/hour;

Conducting detail monitoring work taking approximately .575 full-time equivalent position at a rate of \$19/hour; and

Reporting preparation and follow-up taking approximately 0.125 full-time equivalent position at a rate of \$19/hour.

Indirect expenses are estimated at approximately 15% of the total of the specified expenses referenced in this paragraph 2.

Therefore, in sum, our analysis of fiscal impact on small businesses is that there would be gross costs of compliance, but not net costs of compliance, that it is unlikely that these costs would have adverse economic effects on small businesses, and that, all other things being equal, the costs of compliance for small businesses would be largely the same as for non-small businesses.

Mr. Mark Hughes, Labor Market Information, has determined that for each year of the first five years the rules are in effect, there is no foreseeable impact upon overall employment conditions in the State as a result of the proposed rules.

Barbara Cigainero, Director of Workforce and Development, has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rules will be to help ensure a more effective use of WIA funds to assist Boards in supporting employment, training, and education.

Comments on the proposal may be submitted to Barbara Cigainero, Texas Workforce Commission Building, 101 East 15th Street, Room 504B, Austin, Texas 78778, (512) 463-7747. Comments may also be submitted via fax to (512) 463-3424 or e-mailed to: Barbara.Cigainero@twc.state.tx.us. Comments must be received by the Agency within thirty days from the date of the publication in the Texas Register .

Subchapter H. AGENCY MONITORING ACTIVITIES

40 TAC §§800.301 - 800.308

The rule is proposed under Texas Labor Code, Title 4, which provides the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Agency's services and activities.

The rule affects Texas Labor Code, Chapter 302, particularly §302.062.

§800.301.Purpose.

(a) The purpose of this subchapter is to set forth the Agency's [~~Commission's~~] monitoring provisions and respective responsibilities of [~~its~~] Boards, subrecipients, and contract service providers.

(b) The rules contained in this subchapter apply in addition to any program-specific rules to all programs administered by the Agency [~~Commission~~], except that to the extent of any conflict, the program-specific rules will govern.

§800.302.Definitions.

In addition to the definitions found in §800.2, the [~~The~~] following words or terms when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

~~[(1) Board - A certified local workforce development Board with an approved plan pursuant to The Workforce and Economic Competitiveness Act, Texas Government Code, Chapter 2308, as amended.]~~

~~[(2) Commission - The Texas Workforce Commission.]~~

(1) [~~(3)~~] Contract Service Provider--An entity other than a vendor as defined in the *Office of Management and Budget Circular A-133* engaged to provide goods, services, or both under a contract with a subrecipient, or other provider of services pursuant to an executed contract that is funded with funds administered by the Agency. [as a result of a procurement process.]

(2) [~~(4)~~] Subrecipient--An entity other than a vendor as defined in the *Office of Management and Budget Circular A-133* receiving [federal] funds through a direct contract with the Agency. Boards are subrecipients. [a Board.]

§800.303.Program and Fiscal Monitoring.

(a) Subrecipients [~~Boards~~] shall cooperate with the Agency's [~~Commission's~~] program and fiscal monitoring activities, site visits, review of documentation and requests for information. The Agency [~~Commission~~] is committed to ensuring the accountability of [~~its Boards,~~] subrecipients[,] and contract service providers.

Therefore, monitoring activities have been developed to:

(1) ensure programs achieve intended results;

(2) ensure resources are efficiently and effectively used for authorized purposes and are protected from waste, fraud, and abuse; and

(3) ensure reliable and timely information is captured and [~~] reported to serve as the basis to [and used to]~~ improve decision-making.

(b) Comprehensive monitoring activities are conducted by the Agency [~~Commission~~] to assess [~~Board,~~] subrecipient and contract [~~contractor~~] service provider progress in achieving program goals and maintaining fiscal accountability. Program and fiscal monitoring activities include site visits, desk reviews, and analysis of both financial and program outcomes to help identify potential weaknesses before such weaknesses result in substandard performance or questioned costs. Monitoring activities shall assess a subrecipient's or contract service provider's [~~contractor's~~] compliance with applicable laws, regulations, [~~authoritative pronouncements, and~~] contract provisions , and official directives including such documents as U.S. Department of Labor Training and Employment Guidance Letters, U.S. Department of Labor Training and Employment Informational Notices, U.S.

Department of Health and Human Services Guidance Letters, and Texas Workforce Commission Workforce Development Letters. The Agency shall assess the subrecipient's or contract service provider's compliance with the appropriate uniform administrative requirements for grants and agreements applicable to the type of entity receiving funds, as promulgated in the circulars or rules of the Office of Management and Budget. Monitoring [These]activities shall encompass both financial and programmatic monitoring and shall be evaluated on a periodic basis. Monitoring reviews result in recommendations that provide practical solutions used to take immediate corrective action.

(c) Subrecipients [Boards, subrecipients,] and contract service providers are subject to audit and [or]review by the Agency [Commission]. The Agency [Commission]may audit and [or]review all relevant records or a [statistically]sample of the records as needed to determine subrecipient and contract service provider [verify Board and contractor] performance.

(d) Failure to comply with this subchapter [section] shall result in corrective action and possible sanctions pursuant to Chapter 800, of this title, Subchapter E, (relating to Sanctions).

§800.304. Program Monitoring Activities.

The Agency [Commission] shall conduct program monitoring activities to ensure that programs achieve both intended and expected results. Processes and procedures used to determine subrecipient and contract service provider [verify Board or contractor] performance may include review and evaluation of one or more of the following:

- (1) [review and analysis of] program results or outcomes;
- (2) [review of] performance measures;
- (3) [verification of] reporting accuracy;
- (4) [analysis of] record keeping and file maintenance;
- (5) [evaluation of] monitoring functions;
- (6) [review of] self-monitoring activities;
- (7) [evaluation of] service delivery;
- (8) [review of] automated systems and reporting;
- (9) [review of] human resources; and
- (10) [verification of] policies and procedures.

§800.305. Fiscal Monitoring Activities.

(a) The Agency [Commission] shall conduct fiscal monitoring activities to ensure that resources are efficiently and effectively used for authorized purposes and are protected from waste, fraud, and abuse. Processes and procedures used to determine subrecipient and contract service provider [verify Board and contractor] performance may include the review and evaluation of one or more of the following:

- (1) accounting and reporting systems;
- (2) budget methodologies;
- (3) cash management practices;
- (4) cost allocation plans and processes;
- (5) cash disbursement compliance and documentation;
- (6) program income identification and reporting;
- (7) insurance coverage and risk exposure;
- (8) oversight and monitoring functions;
- (9) payroll administration;
- (10) purchasing and procurement processes and procedures; and
- (11) property accountability and safeguarding.

(b) Processes and procedures used to determine subrecipient and contract service provider performance shall include a review, evaluation, and determination regarding compliance with the appropriate uniform administrative requirements for grants and agreements as well as the appropriate cost principles applicable for the type of entity receiving funds as listed in circulars or rules of the Office of Management and Budget.

(c) For all WIA funds, processes and procedures used to determine subrecipient and contract service provider performance shall include a review, evaluation, and determination regarding compliance with the applicable requirements regarding cost categories and cost limitations.

Agency [Commission] Monitoring Reports.

The Agency [Commission] shall issue reports summarizing the results of monitoring activities, which may include the observations, findings, and recommendations of the monitoring team and the subrecipient's or contract service provider's [Board's or contractor's] responses to the observations, findings, and recommendations.

§800.307. Resolution.

(a) Resolution Activities.

(1) By the date specified by the Agency, the [~~The Board,~~] subrecipient or contract service provider shall provide information and [~~submit a written response, including related-~~] supporting documentation[~~]~~ to the Agency's [~~Commission's-~~] Resolution Section regarding unresolved findings for [~~for its-~~] review and evaluation. After such review and evaluation the Resolution Section shall issue an initial determination identifying both allowed and disallowed questioned costs , if any, as well as administrative findings . The initial determination shall also address the acceptability of corrective actions taken or planned to resolve administrative findings.

(2) If costs are disallowed, or administrative findings are not resolved, the [~~Board,~~]subrecipient[~~]~~ or contract service provider shall, within 60 days of the date of the initial determination, submit an additional response and provide additional evidence or documentation to justify the costs or administrative actions .

(3) If questioned costs and administrative findings remain unresolved after the timeline specified in the initial determination, a final determination shall be issued identifying the allowed and disallowed costs as well as the unresolved administrative findings . If disallowed costs remain, the final determination will establish a debt against the [~~Board,~~]subrecipient[~~]~~ or contract service provider for the disallowed amount. If administrative findings are not resolved and debts are not paid, the subrecipient or contract service provider may be subject to corrective actions and sanctions pursuant to Chapter 800 of this title, Subchapter F (relating to Sanctions).

(4) For WIA funded activities, if there is a determination that there is a substantial violation of a specific provision of Title I of WIA and corrective action has not been taken within the time specified by the Agency or if there is a finding that a subrecipient or contract service provider is not in compliance with the applicable Office of Management and Budget uniform administrative requirements for grants and agreements, subrecipient or contract service provider shall be subject to sanctions under §800.178(d).

(b) Appeal Process. All final determinations issued by the Agency [~~Commission-~~] may be appealed pursuant to the process provided in §800.191 of this title (relating to Appeals).

§300.308.Agency Access to Records.

(a) The Agency, or its authorized representatives, has the right of timely and reasonable access to any books, documents, papers, computer records, or other records of subrecipients and contract service providers that are pertinent to the use of any funds administered by the Agency, in order to conduct monitoring, audits, and examinations, and to make excerpts, transcripts, and photocopies of such documents.

(b) The right of access also includes timely and reasonable access to subrecipient and contract service provider personnel for the purpose of interview and discussion related to such documents.

(c) The right of access is not limited to any required record retention period but shall last as long as the records are retained.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

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For further information, please call: (512) 463-2573

Subchapter I. SUBRECIPIENT AND CONTRACT SERVICE PROVIDER MONITORING ACTIVITIES

40 TAC §§800.351 - 800.355, 800.357 - 800.360

The rule is proposed under Texas Labor Code, Title 4, which provides the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Agency's services and activities.

The rule affects Texas Labor Code, Chapter 302, particularly §302.062. Subchapter I.

§800.351.Scope and Purpose.

(a) The purpose of this subchapter is to set forth the provisions governing the monitoring responsibilities of [~~Boards,~~]subrecipients[~~]~~ and contract service providers.

(b) The rules contained in this subchapter apply in addition to any program-specific rules to all programs administered by the Agency [~~Commission-~~], except that to the extent of any conflict, the program-specific rule will govern.

§800.352.Definitions.

In addition to the definitions found in §800.2, the ~~[The-]~~ following words or terms when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

~~[(1) Commission—The Texas Workforce Commission.]~~

~~[(2) Board—A certified local workforce development Board with an approved plan pursuant to The Workforce and Economic Competitiveness Act, Texas Government Code, Chapter 2308, as amended.]~~

(1) ~~[(3)]~~ Contract Service Providers--An entity other than a vendor as defined in the Office of Management and Budget Circular A-133 engaged to provide goods, services, or both under a contract with a subrecipient or other provider of services pursuant to an executed contract that is funded with funds administered by the Agency ~~[as a result of a procurement process-].~~

(2) ~~[(4)]~~ Subrecipient--An entity other than a vendor as defined in the Office of Management and Budget Circular A-133 receiving ~~[federal-]~~ funds through a direct contract with the Agency. Boards are subrecipients ~~[Board-].~~ Subrecipient and Contract Service Provider Monitoring. ~~[Board Monitoring of Subrecipient Performance]~~

(a) Subrecipients ~~[Boards, subrecipients,]~~ and contract service providers shall assure that regular oversight of their own activities and regular monitoring of the activities of their contract service providers which ~~[monitor entities that]~~ receive public funds administered by the Agency, is conducted and completed . Monitoring shall include monitoring of both the fiscal and program performance of the entities or contract service providers ~~[subrecipients-]~~ administering and delivering services. These monitoring activities should be designated to ensure programs achieve intended results and resources are efficiently and effectively used for authorized purposes and are protected from waste, fraud, and abuse. Monitoring activities must be planned to focus on areas of highest risk to help ensure the most effective use of monitoring resources.

(b) ~~[Monitoring activities shall assess a contractor's compliance with applicable laws, regulations, authoritative pronouncements, and contract provisions.-]~~ Monitoring activities shall assess a contract service provider's compliance with applicable laws, regulations, contract provisions, and official directives including such documents as U.S. Department of Labor Training and Employment Guidance Letters, U.S. Department of Labor Training and Employment Informational Notices, U.S. Department of Health and Human Services Guidance Letters, and Texas Workforce Commission Workforce Development Letters. The subrecipient shall assess the contract service provider's compliance with the appropriate uniform administrative requirements for grants and agreements applicable to the type of entity receiving funds, as promulgated in the circulars or rules of the Office of Management and Budget. These activities shall encompass both financial and programmatic monitoring and shall be evaluated on a periodic basis. Each subrecipient and contract service provider shall conduct regular oversight and monitoring of its subrecipients and contractors in order to:

(1) determine that expenditures have been changed to the cost categories and within the cost limitations specified in the applicable laws and regulations;

(2) determine whether or not there is compliance with other provisions of applicable laws and regulations; and

(3) provide technical assistance as necessary and appropriate.

(c) The monitoring function shall include the development and implementation of :

(1) a risk assessment tool;

(2) a monitoring plan;

(3) a monitoring program , including established policies and procedures ; and

(4) reporting and resolution processes.

(d) The subrecipient shall develop and implement written policies and procedures that describe and support the monitoring process.

§800.354. Risk Assessment.

(a) Subrecipients and ~~[Boards, subrecipients, or-]~~ contract service providers shall include the use of a risk assessment tool in their monitoring functions.

(b) The risk assessment tool shall identify high-risk ~~[subrecipients or-]~~ contract service providers and high areas of risk within an individual ~~[subrecipient or-]~~ contract service provider's operation ~~[provider-].~~ The entity responsible for including the risk assessment tool in their monitoring functions shall be responsible for determining what constitutes high risk or an area of high risk ~~[high-risk or a high area of risk-].~~

(c) Subrecipients and ~~[Boards, subrecipients, or-]~~ contract service providers shall establish monitoring schedules and ~~[customizing-]~~ monitoring programs that best utilize monitoring resources. Subrecipients and ~~[Boards, subrecipients, or-]~~ contract service providers shall quantify, as much as possible, and document areas of risk identified for assessment.

§800.355. Monitoring Plan.

(a) Subrecipients and [Boards, subrecipients, or-] contract service providers shall develop their own local-level monitoring plan based on the results of the risk assessment. This monitoring plan shall incorporate all of the following:

(1) a schedule or timetable for monitoring Agency funded activities, subrecipients, and contract service providers based upon risk assessment results;

(2) identification of the type of review planned for each subrecipient and [or-] contract service provider, such as on-site review, comparative financial analysis, desk review, staff analysis, or other type of appropriate review; and

(3) the estimated time budgeted to perform each review.

(b) Subrecipients and [Boards, subrecipients, or-] contract service providers may perform monitoring reviews either formally or informally, but shall incorporate the risk assessment results in scheduling decisions.

§800.357. Controls Over Monitoring.

To ensure [a-]comprehensive and effective monitoring, [~~Boards,~~]subrecipients[-] and [or-]contract service providers shall:

(1) require periodic reports from their contract service providers outlining monitoring reviews, noncompliance issues, and the status of corrective actions;

(2) brief the Board or appropriate Board subcommittee at regularly scheduled meetings;

(3) require an annual evaluation of the monitoring function to determine its effectiveness, by a person or entity independent of the monitoring function; and

(4) develop a written monitoring procedure to be used in monitoring both program and fiscal operations.

§800.358. Reporting and Resolution Requirements.

(a) Subrecipients and [Boards, subrecipients, or-] contract service providers shall ensure that monitoring reports identify instances of noncompliance with federal and state laws [-] and regulations and Agency [Commission-] policies ; [-] and provide recommendations for corrective action and program quality enhancements.

(b) Subrecipients and [Boards, subrecipients, or-] contract service providers shall ensure that the [~~Board, subrecipients, and-~~]contract service providers establish timelines for the completion of corrective action plans, based on the severity of the deficiency. The [~~Boards or-~~] subrecipients shall work with the contract service providers to ensure implementation of corrective actions.

(c) Subrecipients and [Boards, subrecipients, or-] contract service providers shall ensure that a copy of monitoring reports shall be provided to the governing Board, and that upon request copies shall be provided to the Agency [Commission-].

§800.359. Independent Audit Requirements.

(a) Subrecipients and [Boards, subrecipients, or-] contract service providers subject to the Single Audit Act must have an independent audit performed in compliance with the *Office of Management and Budget Circular A-133.*

(b) Subrecipients shall submit to the Agency for review and acceptance a complete copy of the audit within nine months of the end of the designated fiscal year. Contract service providers shall submit to the Board, from whom contract funds originated, for review and acceptance a complete copy of the audit within nine months of the end of the designated fiscal year. [The audit must be approved by the cognizant agency of the Board, subrecipient, or contract service provider, with a copy provided to the Commission for review. The cognizant agency is the formal agency assigned with oversight responsibility for the Board, subrecipient, or contract service provider.-]

(c) Subrecipients and [Boards, subrecipients, or-] contract service providers may be reimbursed by the Agency [Commission-] for their share of audit expenses if:

(1) funding is available and reimbursement is permitted by applicable funding sources;

(2) the audit is found to be acceptable upon review by the Agency [Commission-]; and

(3) the audit and reimbursement request follows Agency [Commission-] policies and procedures.

§800.360. Access to Records.

(a) A subrecipient, or its authorized representatives, has the right of timely and reasonable access to any books, documents, papers, computer records, or other records of contract service providers that are pertinent to the use of any funds administered by the Agency, in order to conduct monitoring, audits, and examinations; and to make excerpts, transcripts, and photocopies of such documents.

(b) The right of access also includes timely and reasonable access to contract service provider personnel for the purpose of interview and discussion related to such documents.

(c) The right of access is not limited to any required record retention period but shall last as long as the records are retained.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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For further information, please call: (512) 463-2573