

CHAPTER 14

FINANCIAL AUDITS AND REVIEWS, AND VARIOUS APPEALS

Introduction

This chapter provides information regarding the requirements and process for financial audits, financial management reviews, and appeals, such as:

- A-133 Single Annual Audits
- Health and Safety Audits
- WIC Local Agency Financial Management Review
- Appeals for Financial Management Review, Denial of Funding Application, and Cancellation of a WIC Local Agency Contract

I. General Information

Audit Types and Requirements

A. Annual Financial Audit

A WIC local agency is required to be audited by an independent auditor as part of an organization wide A-133 “single annual audit” (A-133) or “health and safety audit” (H & S) once per year, based upon 7 CFR 246.20 to determine if all of the following apply:

- Financial operations are properly conducted
- Financial reports are fairly presented
- The parent agency and WIC local agency have complied with all applicable laws, regulations, and administrative requirements that affect the expenditure of WIC Program funds.

Pro-rata share costs associated with A-133 or H & S audits by an independent auditor are allowable and can be charged to the State WIC Program.

B. Financial Management Reviews

The State WIC Program is required to perform a biennial evaluation of WIC local agency operations called a “program evaluation” (PE). The PE includes a review of WIC local agency financial operations per 7 CFR 246.19. The State WIC Program contracts with the State Controller’s Office (SCO) to perform the financial management review component of the PE.

C. Other Financial Audits

The State WIC Program shall request SCO to perform periodic, random financial reviews for the purpose of ensuring WIC operations are transparent, in compliance with program requirements, and to measure the timeliness of implementing new program requirements. The State WIC Program shall also request SCO to perform targeted financial reviews, audits or investigations in situations where the State WIC Program has reasonable cause to believe a WIC local agency is not in compliance with program requirements, including but not limited to fraudulent activities.

Access to WIC Records

Auditors conducting audits are considered to be persons associated with the administration of the WIC Program; therefore, they can be granted access to WIC records in a limited manner.

Auditors may have access to information and records for the purpose of conducting an **on-site** test of a sample of participation records to determine compliance with program requirements; however, they must protect participant identity.

The on-site test of a sample of participation records can be performed by auditors to verify if the certification process to determine eligibility of individuals was conducted according to Federal or State requirements; however, the wholesale release of all participant records is not allowed. WIC staff may create an activities spreadsheet to guide the auditors' file selection. The file or spreadsheet may not be removed from the WIC premises by the auditor.

II. A-133 Single Annual Audits

Requirements

A WIC local agency that expends **over** \$500,000 annually in total federal awards is required to complete an A-133 Single Annual (A-133) audit.

The A-133 audit is an independent audit that determines if funds are expended for allowable costs, in accordance with grant objectives, and internal controls are in place.

The Single Audit Act Amendments of 1996 and Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments and Non-Profit Organizations established a single audit procedure for federal grant recipients.

Tracking and Review

The Maternal, Child and Adolescent Health (MCAH) Branch of the Department of Public Health is the clearing house for all WIC Program A-133 audit reports conducted by WIC local agencies. The State WIC Program contracts with the SCO to track, evaluate, approve, and monitor all audit report findings and follow-up requirements.

Notifications

The MCAH Branch sends an audit notification letter to a WIC local agency regarding the due date for their A-133 audit report. The WIC local agency must confirm the type of independent annual audit to be performed (A-133 audit or the H&S audit).

Due Date and Submission

Three (3) copies of the A-133 audit report are due to the MCAH Branch within 9 months following the fiscal year end. Separate management letters and corrective action plans referenced in the A-133 audit report must be included with the information provided to the MCAH Branch.

Where to Send an Audit:

Department of Public Health
Maternal, Child, and Adolescent Health Branch
Attention: Audit Coordinator
1615 Capitol Avenue, MS 8305
P.O. Box 997420
Sacramento, CA 95899-7420

Extensions

In some instances, MCAH may provide a WIC local agency with a 30-day extension to the original audit report due date. The justification for extension requests must be submitted in writing from the WIC local agency to the MCAH Audit Coordinator.

Late Audit Warning Notices

The MCAH Branch sends “late audit” warning letters to a WIC local agency when the audit report is not received within 30, 60, and 90 days of the audit due date.

Consequences of Late Audits

When a WIC local agency’s audit report is more than 90 days overdue, the State WIC Program will contact the WIC local agency fiscal officer by telephone and discuss the audit status. If the audit is not conducted or is not submitted immediately within five (5) business days, the State WIC Program may place the WIC local agency on probation until the audit is received.

Probation will be initiated by the State WIC Program with a letter to the WIC local agency’s parent-agency director. During the probation period, the WIC local agency may be subject to further fiscal and operational scrutiny and further action may be taken, including discontinuing the agreement, or non-renewal.

Contents and Closure

The A-133 audit report submitted by the WIC local agency should include these minimum components:

- Independent auditor's opinion stating that the audit was conducted in accordance with the provisions of OMB Circular A-133 and in accordance with Generally Accepted Government Auditing Standards (GAGAs).
- Audited financial statements.
- Schedule of Expenditures of federal awards and opinion thereon.
- Report regarding the internal controls over compliance with laws, regulations, and provisions of contracts or grant agreements that could have direct and material effect on the federal program.
- Schedule of findings and questioned costs.
- Auditee's corrective action plans (if any).
- Summary schedule of prior audit findings which includes planned and completed corrective actions (if any).

Deficient Audits

The A-133 audit submitted without the minimum components is a deficient report. When required components are missing from an audit report, the MCAH Branch will send the WIC local agency an Audit Deficiency Management letter with the list of the deficient items.

The WIC local agency has 30 days to send the MCAH Branch the deficient items. When the deficient items have been received, the MCAH Branch will distribute the report to the SCO for review.

Disclosures

The SCO may look for disclosures in the A-133 audit that cite any of the following:

- going concern problems,
 - unresolved legal issues,
 - questioned costs,
 - financial hardship,
 - lack of compliance with contracts, laws or regulations,
 - ineffective internal control measures, and
 - control board turnover.
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Corrective Action Plan (CAP) Request When an A-133 audit report review by the SCO identifies a “finding” or deficiency needing correction, SCO will send a letter to request a Corrective Action Plan (CAP) from the WIC local agency.

CAP Response The WIC local agency must send a written CAP to the SCO within 30 days, indicating how the finding(s) will be addressed (if a copy of the CAP was not included with the submission of the audit). The SCO will evaluate the CAP and monitor compliance to the CAP.

Closure Letter The SCO will issue a CAP closure letter (management decision letter) when the CAP has been satisfactorily resolved.

III. Health and Safety (H&S) Audits

Requirements The Health and Safety (H&S) audit is an independent annual financial audit conducted for a WIC local agency.

As defined by Health and Safety Code Section(s) 38040 and 38041, if a WIC local agency receives **less** than \$500,000 in total federal monies. The WIC local agency is required to complete only the H&S audit, rather than an A-133 Single Annual (A-133) audit.

Notifications The MCAH Branch sends an audit notification letter to a WIC local agency regarding the due date for their audit report. The WIC local agency must confirm the type of independent annual audit to be performed (A-133 audit or H&S audit).

Due Date and Submission The WIC local agency must mail three (3) copies of the annual H & S audit report to the MCAH Branch within five (5) months and 15 days of a WIC local agency’s fiscal year end. Separate management letters and corrective action plans referenced in the A-133 audit report must be included with the information provided to the MCAH Branch.

Where to Send an Audit:

Department of Public Health
Maternal, Child, and Adolescent Health Branch
Attention: Audit Coordinator
1615 Capitol Avenue, MS 8305
P.O. Box 997420
Sacramento, CA 95899-7420

Extensions

In some instances, MCAH may provide a WIC local agency with a 30-day extension to the original audit report due date. The justification for extension requests must be submitted in writing from the WIC local agency to the MCAH Audit Coordinator.

**Late Audits
Warning Notice**

The MCAH Branch sends a “late audit” warning letter to a WIC local agency when the audit reports are not received within 30, 60, and 90 days of the audit due date.

**Consequences of
Late Audit**

When a WIC local agency’s audit report is more than 90 days overdue, the State WIC Program will contact the WIC local agency fiscal officer by telephone and discuss the audit status. If the audit is not conducted or is not submitted immediately within five (5) business days, the State WIC Program may place the WIC local agency on probation until the audit is received.

Probation will be initiated by the State WIC Program with a letter to the WIC local agency’s parent-agency director. During the probation period, the WIC local agency may be subject to further fiscal and operational scrutiny and further action may be taken, including discontinuing the agreement, or non-renewal.

**Contents and
Closure**

The H&S audit, at a minimum, must include:

- Opinion letter – Independent auditor’s report stating that the audit was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAs).
 - Audited Financial Statements.
 - Notes Accompanying the Financial Statements.
 - Separate report in accordance with GAGAs.
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Deficient Audits

The H&S audit submitted without the minimum components is a deficient report. When required components are missing from an audit report, the MCAH Branch will send the WIC local agency an Audit Deficiency Management letter with the list of deficient items.

The WIC local agency has 30 days to send the MCAH Branch the deficient items. When the deficient items have been received, the MCAH Branch will distribute the report to the SCO for review.

For requirements on Disclosures, CAP Request and Response, and Closure Letter, please refer to the previous section of this chapter (A-133 Audits) as the requirements are the same.

IV. Financial Management Reviews

Occurrence

The financial management review portion of the program evaluation is conducted by the State Controller's Office (SCO) once every two years on behalf of the State WIC Program. A WIC local agency will be notified in advance by the SCO to schedule the review dates. The WIC Local agency preference will be considered regarding the option to have the PE and financial management reviews conducted at the same time. Unannounced reviews may be performed.

Review Period

SCO will identify the time period to be reviewed, and will include, at a minimum, the two years immediately preceding the year during which the review is performed. Other years may be included if they were not previously reviewed, to ensure a thorough and accurate assessment can be completed.

Protocol and Content

Financial management reviews begin with an entrance conference to present planned review areas such as the funding application, subcontracts, invoices, paid warrants, source documents, time studies, books of account, working papers, accounting reports, and other pertinent records. It will end with an exit conference to summarize the findings and recommendations. A WIC local agency shall make all administrative, fiscal, and participant records available to the reviewers.

Report

The State WIC Program will issue a letter identifying the outcome of the financial management review, which may be incorporated into the overall “letter of findings” (LOF) or delivered in a separate letter as an addendum.

Corrective Action Plan

A WIC local agency is required to submit a CAP to the Local Agency Support Branch (LASB) Section Chief identified in the LOF within 60 days of receiving the LOF (or separate letter). The State WIC Program will issue a “letter of closure” when the CAP is satisfactorily completed.

V. Other Financial Audits

Rationale

If the State WIC Program has determined that a WIC local agency may be out of compliance with state or federal financial or allowable cost requirements, then the State WIC Program will authorize the SCO to conduct a more thorough financial audit. If the SCO determines that a WIC local agency must return funds to the State WIC Program as the result of a financial audit, then the State WIC Program will issue a “notice of audit findings” letter along with payment and appeal options. Payments are submitted to:

State WIC Program
Program and Business Integrity Section Chief
3901 Lennane Drive
Sacramento, CA 95834

Recovery of Overpayments

Claims made against the WIC local agency pursuant to a report by the State or federal government are recovered by one of the following options:

1. A WIC local agency may remit the full amount due within 30 days following the request for repayment.
2. A repayment schedule which is agreeable to both the State and the WIC local agency.

3. A reduction of the WIC local agency's claims for reimbursement for WIC services for one or more months (invoice offset).

If the WIC local agency has filed a valid appeal regarding the report, recovery of overpayments is deferred until a final administrative decision is reached.

Interest Charges

Interest on the unpaid balance of a report finding will accrue at a rate set forth in applicable rule or statute, beginning 30 days after receipt of the State's demand for repayment.

VI. Appeals of State Financial Management Reviews

Right to Appeal and Protocol

A WIC local agency may appeal the findings of an audit conducted by the State Controller's Office which results in a demand for repayment of questioned costs. Guidelines for appeal procedures will be included in the State WIC Program "notice of audit findings" letter. The rules and procedures governing appeal rights and the appeal process are described in the California Code of Regulations, Title 22, sections 40781 and 40783. The website is www.calregs.com.

Hearing Types and Procedures

The Department of Health Care Services, Administrative Appeals Office operates a bi-level hearing process consisting of Informal Hearings and Formal Hearings. The information below includes a brief description of each type of hearing process.

Informal Hearings

Upon receipt and acceptance of a Statement of Disputed Issues, the appeal is assigned to a Hearing Officer, who mails written notice of the date, time, and place of the informal hearing to each party at least 30 calendar days before the date of the hearing. This period may be shortened with the consent of the parties, and the availability of a Hearing Officer.

The Hearing Officer is not an attorney and can hear only factual issues. The purpose of the informal hearing is to provide an opportunity for the parties to resolve any disputed issues prior to or in lieu of a formal hearing. Testimony is not given under oath and there are not restrictions on who may testify. The Rules of

Evidence do not apply and hearsay is admissible. The appellant may introduce any relevant evidence and the Hearing Officer will consider that evidence.

Each party has the right to present its case, be represented by counsel, call and examine parties and witnesses, and introduce exhibits. Prior to the hearing, the appellant (WIC local agency) will have the opportunity to review program case records which support the adverse action.

The informal hearing will be electronically recorded for review purposes. Subsequent to the hearing, the Hearing Officer will review the case and render a decision based on the following:

1. Factual evidence introduced prior to, during, and subsequent to the hearing. (If it is determined during the hearing that additional time will be allowed for submission of evidence).
2. Testimony given at the hearing,
3. Position statements submitted prior to or during the hearing, and
4. Statutory and regulatory provisions governing the WIC Program.

A Report of Findings (the proposed decision), will be mailed to the appellant via certified mail, and will include notice that the appellant may appeal any issues that remain in dispute by requesting a formal hearing within 30 days. Instructions for filing the formal hearing will be included with the Report of Findings.

Formal Hearings

The formal hearing is conducted by an administrative law judge (ALJ) and is a trial “de novo” (no consideration will be given to any evidence or testimony given at the informal hearing). When it has been determined that a formal hearing will be scheduled, it will be scheduled as soon as possible.

Written notice of the time and place of the formal hearing will be mailed to each party at least 30 calendar days before the date of the hearing. This period may be shortened with the consent of the parties, and the availability of an administrative law judge.

Prior to the hearing and upon request, the appellant will have the opportunity to review program case records which support the

adverse action. During the formal hearing, the parties are expected to comply with the rules and procedures described in the California Code of Regulations, Title 22, section 40781 (d). The website is www.calregs.com.

VII. Appeal of Denial of Funding Application or Termination of a WIC Local Agency Agreement

Appeal Rights

A WIC local agency may appeal the State WIC Program's decision to deny a funding application or to terminate a WIC local agency contract within the term of the Agreement. Expiration of the WIC local agency agreement is **not** subject to appeal and is supported by the Code of Federal Regulations (7 CFR 246.18).

Time Frame and Appeals Process

A WIC local agency may appeal an action taken by the State WIC Program. The appeal must be in writing and shall clearly state the following:

1. the issues in dispute;
2. the legal authority or other bases for the appeal; and
3. the remedy sought.

Submit appeals to:

Department of Health Care Services
Office of Administrative Hearings and Appeals
1029 J Street, Suite 200
Sacramento, CA 95814

Forward a copy of the appeal to:

State WIC Program
Local Agency Support Branch
Attention: Contract Analyst
3901 Lennane Drive
Sacramento, CA 95834

Deadline for Filing

A WIC local agency must file the request for an administrative appeal within thirty (30) days of the WIC local agency's receipt of State WIC Program's written notification of the action being appealed.

Notice of Hearing Written notice of the time and place of the appeal hearing (both informal and formal) shall be mailed to the WIC local agency at least twenty (20) days before the date of the hearing. This period may be shortened with the consent of both parties. The appeal hearing shall be held in Sacramento.

Rescheduling of Hearing Upon specific request, either party shall have one opportunity to reschedule the hearing. The hearing shall be rescheduled within thirty (30) days of the original hearing date. No other continuances shall be granted.

Postponement of Adverse Action under Appeal If the WIC local agency appeals the State WIC Program’s decision to disqualify the WIC local agency during the term of the agreement, the action shall be postponed until a hearing is held and a final decision rendered.

If the appeal concerns State WIC Program’s decision to deny a WIC local agency’s initial application to participate, the application is considered “pending” until the hearing decision is rendered

Continuing Responsibilities Appealing an adverse action does **not** relieve the WIC local agency of the responsibility for continued compliance with the terms of the WIC local agency agreement with the Department of Public Health in effect at the time of the appeal.

Hearing Procedures The Department of Health Care Services’ (DHCS) Office of Administrative Hearings and Appeals operates a bi-level hearing process, consisting of informal hearings and formal hearings. The hearings are conducted in accordance with Federal Regulations and Provisions of the California Administrative Procedure Act (APA), Government Code: Section 11400, et seq.

Informal Hearings A WIC local agency may elect to hold an informal hearing or go directly to a formal hearing. An informal hearing is conducted by a Hearing Officer who is a DHCS Administrative Appeals Office staff member.

The purpose of the informal hearing is to provide an opportunity for the parties to resolve any of the disputed issues prior to, or in

lieu of, a formal hearing. At the conclusion of the informal hearing, a Report of Findings is mailed to the appellant via certified mail. The Report of Findings includes notice that the appellant may appeal any issues that remain in dispute by requesting a formal hearing.

Formal Hearings

Formal hearings are conducted in accordance with the procedural requirements of the Federal Regulations and the APA. A formal hearing is conducted by an Administrative Law Judge (ALJ) and is a trial “*de novo*” (no consideration is given to any evidence or testimony given at the informal hearing). At the conclusion of the final hearing, the ALJ will submit a prepared submission to the DHCS Director or designee for adoption. The decision is final upon adoption by the DHCS Director. Copies of the final decision shall be mailed to the appellant and the representative of DHCS.

Failure to Appear at the Formal Hearing

An appeal is dismissed if the WIC local agency fails to appear at the formal hearing. The Notice of Dismissal will be mailed to the WIC local agency. The Director may retract any dismissal if the WIC local agency submits an application in writing within ten (10) days after personal service or receipt of the dismissal, showing good cause for failure to appear at the hearing. The parties will be given written notice of an order granting or denying any application to retract a decision

Judicial Review

After a decision is adopted by the DHCS Director and becomes final, the WIC local agency has the right to pursue judicial review of the decision if the WIC local agency is not in agreement.
