LDH Audit Requirements for Contracts

	Louisiana Department of Health (LDH)	
DEPARTMENT OF HEALTH	**Policy Number**	13.3
	Content	Defines LDH policy for compliance with federal and state audit requirements for approved contracts with LDH
	Effective Date	October 06, 2016
	Inquiries to	Division of Fiscal Management P. O. Box 3797 Baton Rouge, Louisiana 70821-3797 (225) 342-1483 FAX (225) 342-8665

If there is a discrepancy between an LDH Policy and a Program Office or facility policy, the LDH policy shall govern/overrule/supersede the conflicting section within the Program Office or facility policy.

I. STATEMENT OF POLICY

It is the policy of the Louisiana Department of Health ("LDH") to fully adhere to the Single Audit Act of 1984 ("SAA"), Public Law 98-502 (98th Congress S. 1510); the Single Audit Act Amendment of 1996, Public Law 104-156 (104th Congress, S. 1579); and Title 34, Part (D), Section 2534 of the Louisiana Administrative Code ("LAC"). The SAA of 1984 requires each sub-recipient of federal pass-through funds totaling $750,000 or more to have an annual audit done in accordance with the 2 CFR Part 200 Subpart F (Super Circular), which replaced the U.S. Office of Management and Budget ("OMB") Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations* (2003, amended 2007).

II. APPLICABILITY

This policy applies to all offices and employees of LDH.

III. EFFECTIVE DATE

The effective date of this policy is October 06, 2016.

IV. FEDERAL AUDIT REQUIREMENTS

The SAA of 1984 requires LDH to ensure that each sub-recipient of federal pass-through funds totaling $750,000 or more has a yearly audit done in accordance with the Super Circular.

V. STATE OF LOUISIANA AUDIT REQUIREMENTS

A non-governmental entity (profit or non-profit) which has a cost reimbursement contract with L D H and expects to receive $100,000 or more in funds from one or more cost-reimbursement state contracts, must have a financial and compliance audit performed in accordance with the most current revision of the Government Auditing Standards ("GAS") issued by the U.S. Government Accountability Office ("GAO").

A. Type of Audit

The GAS standards are established by the Comptroller General of the United States and published by GAO in a book entitled the "Government Auditing Standards", also known as the Yellow Book. These standards are frequently referred to by the acronym GAS or GAGAS ("Generally Accepted Governmental Auditing Standards"). The terms "GAS", "Government Auditing Standards," "Yellow Book," and "GAGAS" are synonymous with each other and represent the same set of standards.

VI. RESPONSIBILITIES

The Secretary or designee, the Undersecretary, and each Assistant Secretary are responsible for assuring that managers and supervisors within their organizational authority comply with the provisions and the intent of this policy. Each employee will be advised of this policy and each office is responsible for assuring that the language of each covered contract complies with this policy.

A. LDH Agency Contract Negotiator

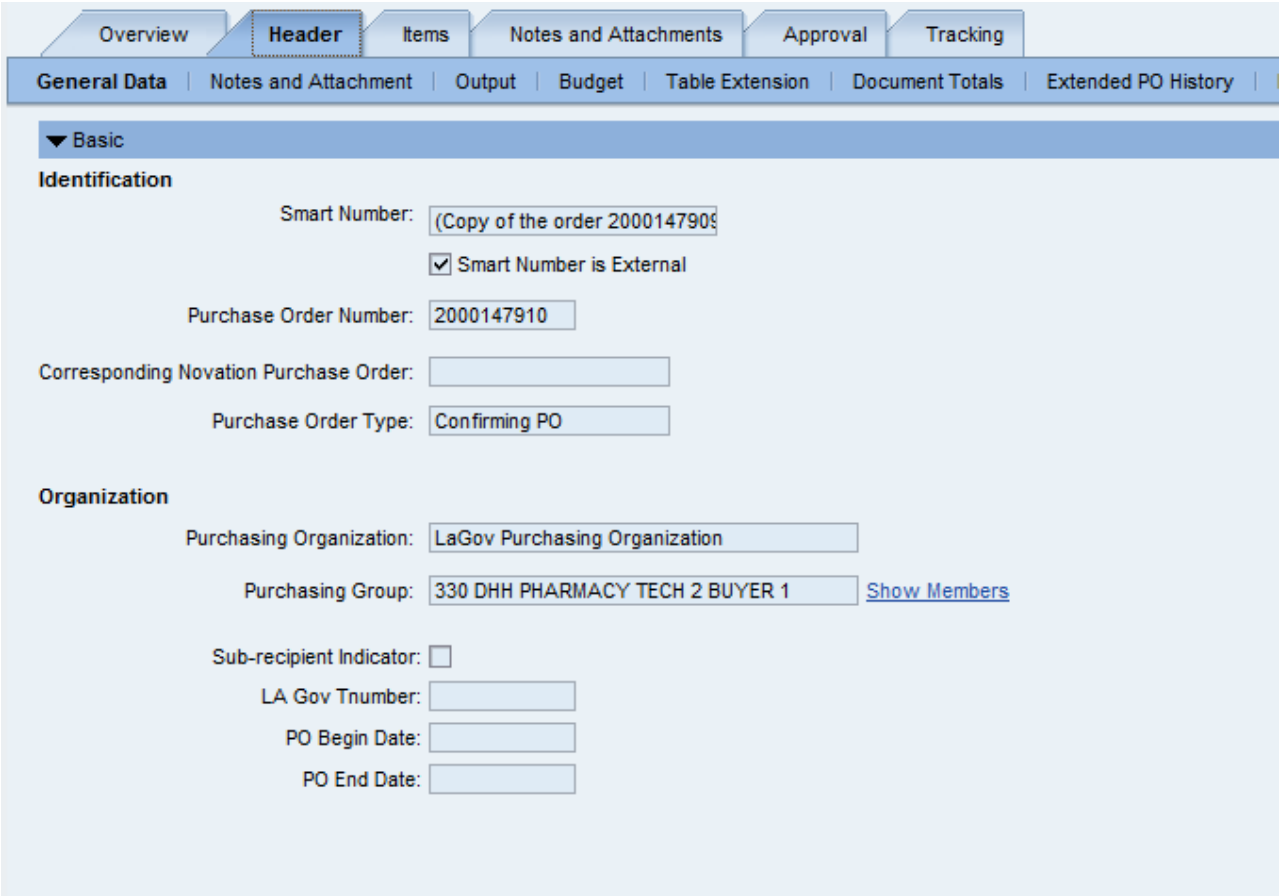
The following items are the responsibility of the LDH employee who negotiates a contract, and must be completed before the contract is signed:

1. Complete LDH's Audit Checklist (Attachment 1). The checklist is used to determine whether the contractor is required to submit an audit to LDH.
   a. Attachment 1 is used to indicate whether an audit is due, the date the audit is due, and to designate the LDH employee who is responsible for Audit Report Monitoring.
   b. This document **must be** attached to all contracts.
2. Inform the contractor of all audit requirements associated with this contract.

B. LDH Agency Contract Management

1. If the contractor is determined to be a Sub-recipient, select the "Sub-recipient indicator" on the Header screen of the LaGov Purchase Order or the Contract.

Purchase Order:



Contract

Status and Statistics

Created On:	11/18/2015
Created By:	P00224245
FM Posting Date: *	11/18/2015
Parked:	☐
Closeout Status:	None
Selective Release Status:	
LA Gov Tnumber:	
Sub-recipient Indicator:	☐
Legacy Reference Num:	
Prime:	☐
LA Gov LAPS:	☐

2. If an audit is required, indicate on the Audit Checklist the audit due date, the audit monitor (responsible person), and the audit monitor's address and contact information. Send the completed and signed Audit Checklist to LDH Fiscal Management.

C. Division of Fiscal Management

1. Provide technical assistance to all LDH offices in interpreting the federal and state audit laws and LDH audit requirements.
2. If requested, provide copies of the *Government Auditing Standards (Yellow Book)* and Super Circular to LDH employees and LDH contractors.
3. Maintain an audit tracking system to track the type of audit due, the audit's due date, and the audit findings and if the findings have been resolved. The Division of Fiscal Management will maintain the audit report records for LDH.

D. Contractor

It is the responsibility of the contractor to hire and pay an independent certified public accountant to perform the audit. The contractor may contact the Society of Louisiana Certified Public Accountants to request a list of CPAs who perform GAS Audits.

VII. DEFINITIONS

For the purpose of this policy, the following words or phrases shall have the following meanings:

A. Super Circular (2 CFR Part 200 Subpart F) – replaced the OMB Circular A-133. This circular provides policy guidance to federal agencies for establishing uniform requirements for audits of awards provided to state and local governments and nonprofit organizations. It promotes the efficient and effective use of audit services.

B. Audit - a term used to describe not only work done by auditors in examining financial statements, but also work done by auditors in reviewing compliance with laws and regulations, economy and efficiency of operations, and effectiveness in achieving program results.

C. Audit Report - the medium through which an auditor communicates the results of the audit.

The report should contain the following information:

1. The audit's objectives, scope and methodology.
2. Significant audit findings and, where applicable, an auditor's conclusion.
3. Recommendations for action to correct problem areas and to improve operations.
4. Statement assuring the audit was made in accordance with generally accepted government auditing standards and, if applicable, Super Circular.
5. Significant instances of non-compliance and all significant instances of abuse that were found during or in connection with the audit. In some circumstances, auditors should report illegal acts directly to parties external to the audited entity.
6. Scope of their work on management controls and any significant weaknesses found during the audit.
7. Views of responsible officials of the audited program concerning auditors' findings, conclusions, and recommendations, as well as corrections planned.
8. Report noteworthy accomplishments, particularly when management improvements in one area may be applicable elsewhere.
9. Report on the governmental financial assistance received.

D. Audit Standards - general measures of the quality and adequacy of the work performance by the auditor, which relate to the auditor's competency and proficiency in the performance of assigned duties.

E. Central Offices - the LDH offices which do not fall under the authority of a LDH Regional Administrative Office. They include the Office of the Secretary, Office of

Management and Finance and the LDH Agencies.

F. Generally Accepted Accounting Principles *(GAAP)* - is a framework of accounting standards, rules and procedures defined by the professional accounting industry. The Financial Accounting Standards Board (FASB) is the body that establishes accounting principles.

G. Government Auditing Standards *(Yellow Book)* - are standards for audits of government organizations, programs, activities, and functions and of government assistance received by contractors, non-profit organizations, and other non-governmental organizations. These standards are to be followed by auditors and audit organizations when required by law, regulation, agreement, contract or policy. The standards pertain to auditors' professional qualifications, the quality of audit effort, and the characteristics of professional and meaningful audit reports. The standards are issued by the United States Government Accountability Office.

H. OMB Circular A-133 (Audits of States, Local Governments and Non-Profit Organizations) – provides policy guidance to federal agencies for establishing uniform requirements for audits of awards provided to state and local governments and nonprofit organizations. It promotes the efficient and effective use of audit services. This circular was superseded by 2 CFR part 200 subpart F (Super Circular).

I. Program Offices - the following offices within the LDH: Office of Behavioral Health; Office of Aging and Adult Services; Office of Public Health; Office for Citizens with Developmental Disabilities; and the Bureau of Health Services Financing.

J. Provider/Contractor - a state agency, any subdivision of the State or any private business person(s) or entity that enters into a contract with any office of LDH or the federal government to provide goods or services under any public welfare, health or social program which LDH has responsibility to control, monitor or audit.

K. Regional Program Offices - the regional offices within the Office of Behavioral Health, Office for Citizens with Developmental Disabilities, Office of Public Health, and the Office of Medicaid Eligibility within the Bureau of Health Services Financing.

L. Cost Reimbursement Contract – refers to a contract under which reasonable costs incurred by a contractor in the performance of a contract are reimbursed in accordance with the terms of the contract. These contracts establish an estimate of the total cost the purpose of obligating funds and establish a ceiling that a contractor may not exceed. These contracts are suitable for use only when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract.

M. Sub-recipient – a non-federal entity that expends federal awards received to carry out a program through a primary recipient or other sub-recipient, but does not include an individual that is a beneficiary of such program.

Characteristics of a Sub-recipient:

Determines eligibility for Federal assistance

Performance is measured against meeting the objectives of the federal program

Responsible for programmatic decision making

Responsible for applicable Federal program compliance requirements

Uses the funds passed through to carry out a program of the organization, not to provide goods or services for a program of the pass-through entity

Sub-recipient vs. Vendor Determination Checklist (Attachment 2) is a checklist to be used to determine a sub-recipient.

N. Federal Pass-Through Funds - federal financial assistance received indirectly through other units of state or local governments. Medicaid (Title XIX) funds are an exception to this definition. The State of Louisiana has determined that Title XIX funds received by interagency transfer will be considered as state general funds by the entity.

VIII. DISCIPLINARY ACTIONS

Violations of this policy may result in disciplinary action up to and including dismissal.

VIII. REVISION HISTORY

Date	Revision
March 20, 1996	Policy created
February 25, 2000	Policy revised
May 17, 2000	Form revised
January 13, 2006	Policy revised
February 12, 2015	Policy revised
October 06, 2016	Policy revised
	Policy revised

LDH AUDIT CHECKLIST

Answer the following questions to determine if the contractor requires an audit.

Name of LDH Office: _____

Name of Contractor: _____

LaGov Contract Number: _____

Fiscal Year: _____

(Please Circle)

1. Does the contractor qualify as a sub-recipient of Federal funds as defined in Section VII.M of this policy 13.1 "LDH Audit Requirements"? See Attachment 2 — Yes No

(If 'No', proceed to question #2.)

If 'Yes', is the contract ≥ $750,000? — Yes No

If both answers to question 1 are "Yes", then the contractor is required to submit an audit to LDH.

2. Is the contract a "Cost Reimbursable" contract? — Yes No

(If 'No', no audit is required. Skip the remaining questions.)

If 'Yes', is the contractor expected to receive $100,000 or more from LDH? — Yes No

If both answers to question 2 are "Yes", then the contractor is required to submit an audit to LDH.

3. If the contractor is required to submit an audit, when is the audit due? _____

(This is usually 6 months after the contractor's fiscal year ends.)

4. List the Program employee who is responsible for Contract Monitoring:

(This is usually the LDH employee responsible for monitoring the contract or the individual designated by the Secretary, Undersecretary, Assistant Secretary or Facility Administrator.)

Name/Title:	
Mailing Address:	
City/State/Zip Code:	
Phone Number:	

Signature: _____

Date: _____

Return this form to LDH Fiscal Management at:
Bienville Building – 5th Floor
628 N. 4th Street
Baton Rouge, LA 70821

Attachment 2

Sub-recipient vs. Vendor Determination Checklist

Federal Program Name_____

CFDA Number_____

Name of Contractor (Vendor) or Grantee (Sub-recipient) _____

Contract/PO Number _____

Please complete the following checklist by placing an X in the box under the appropriate column for each question for either sub-recipient or vendor.

Explanations are provided below the questions to assist with your determination. **One sub-recipient check does not necessarily make the entity a sub-recipient, except for question A. If question A is sub-recipient, you may skip the rest of the questions.**

Please indicate your determination at the bottom.

A. Decision-making Authority

If your grant is a service delivery grant and the entity determines eligibility of participants receiving services paid for by the grant funds, then they are a sub-recipient.

Does the entity have authority to make program decisions about delivery, and does the entity determine who is eligible to participate in the program? **Yes (Sub-recipient)** ☐ **No (Vendor)** ☐

B. Solicitation and Competition

It is important to look at how and why the entity was chosen. Is an RFP required for a competitive purchase? If so, the entity would be a vendor. If not, the entity may be a sub-recipient — but it depends on the scope of the contract.

Were you required to obtain a bid or a quote? **No (Sub-recipient)** ☐ **Yes (Vendor)** ☐

Instead of contracting for goods or services, are you making an announcement that funding is available or seeking applications to apply for funding even if the rewarding of funds is on a competitive basis? **Yes (Sub-recipient)** ☐ **No (Vendor)** ☐

C. Purchasing Relationship

Typically, if the entity is in a competitive market, they are providing a service that's available by other entities and they are a vendor. There are also sole source providers — but if they are providing the agency with a unique service they don't provide to anyone else, and no other companies offer the service, then the entity may be a sub-recipient — depending on the answers to questions in section E.

Does the entity provide similar goods or services to many different purchasers?

No (Sub-recipient) ☐ **Yes** (Vendor) ☐

D. Criteria for Selection

If the contract is a vendor relationship, you chose them because they had the best service or widgets for the price. Most likely you found that out because you went out on bid. If the entity was chosen maybe because they are already providing a service allowable by your grant and you want to partner with them to expand the delivery and assist you in meeting the goal of your grant, the entity may be a sub-recipient — depending on the answers to questions in section E.

What was the most important reason for selecting this entity?

1. They demonstrated a financial or public need for funding to carry out a project or provide a service.
2. Their ability to deliver the goods or services required by your program?

#1 (Sub-recipient) ☐ **#2** (Vendor) ☐

E. Statement of Work / Scope of Services

Ask yourself, is the entity providing the agency a service to help the agency meet the goal of the grant, or is the service actually carrying out an intended goal of the grant? If your grant has several goals, it is possible the agency completes part, and the entity performs the other part. This would make them a sub-recipient. For example, if your grant has goals of training, service delivery, and data collection, you may contract with another party to complete the training portion and perform the other two goals in-house. If you simply provide the entity the funding to perform the training and the scope of the contract is per the grant award notice terms/guidance, then the entity is a sub-recipient. If you provide the entity funding, but you have developed how the training should be conducted and maybe you even oversee the entity when they are performing the training, then the entity is a vendor.

Sometimes there is a very thin line between the two! You should error on the side of caution. If there is any question, treat the entity as a sub-recipient.

Which statement below best fits your contract?

1. The scope of work, terms, and conditions of the contract were developed by the agency.
2. The scope of work, terms, and condition of the contract are the same for the entity as they are for the agency per federal grant guidance.

#2(Sub-recipient) ☐ **#1**(Vendor) ☐

Which statement below best fits your contract?

1. The entity is providing the agency support or assistance in carrying out the mission of the grant as stated in the federal award.

2. The entity is carrying out completion of the mission (or part of, if applicable) as stated in the federal award.

#2 **(Sub-recipient)** **#1** **(Vendor)**

☐ ☐

F. Nature of Award

If the funding is given to the entity with a purpose of completing the goal of the grant and the agency has no oversight on how the entity performs or accomplishes that grant goal, then the entity is a sub-recipient. If the agency provides funding and asks for specific activities to be completed by the entity to help it complete a part of the grant then the entity is a vendor.

Which statement best fits how these federal funds will be used:

1. The entity will use the funds to carry out its own public project and/or provide a public service.

2. The entity is assisting the agency in meeting its program objectives. The goods and services obtained through this contract help the agency meet its goals.

#1 **(Sub-recipient)** **#2** **(Vendor)**

☐ ☐

G. Pricing of the Agreement

Will the entity make a profit from the contract? Typically, vendors will compete for business and charge a price, which will net them a profit. A sub-recipient will receive the funding and use it all to deliver the service or supplement the entity in a service they would maybe deliver anyway.

Which statement best fits terms of payment:

1. The entity is reimbursed for its actual costs as outlined in the contract and should not earn a profit from the terms of payment.
2. The entity is paid a fee for service or fixed price above its cost (for profit).

#1 **(Sub-recipient)** **#2** **(Vendor)**

☐ ☐

H. Cost Sharing / Matching

If the entity is using their own funding to support the goal of the contract and is required or voluntarily provides matching funds in cash, kind or program income, the entity is a sub-recipient.

Is the entity required to contribute its own non-federal resources to help pay for the program/project/service?

Yes (Sub-recipient) ☐ **No** (Vendor) ☐

I. Award Risk

If the entity is a vendor, they won't get paid if they don't deliver the product or the services as specified in the contract. They assume all financial risk. In a sub-recipient relationship, the agency is responsible for the entity's performance. The agency must monitor the entity to ensure they are performing as outlined in the grant terms and conditions. If they don't perform according to grant guidance it is the agency who will be held responsible by the federal agency and auditors.

Which statement best fits the assumption of risk:

1. The funding to the entity depends on its ability to make its best effort to meet the objectives of the award. Although performance is measured against federal award objectives, the entity assumes little risk if the performance doesn't meet its goals.
2. The entity assumes all financial risk if they fail to deliver the goods or services agreed upon.

#1 (Sub-recipient) ☐ **#2** (Vendor) ☐

Determination

Review all your entries and make an overall determination of the relationship.

Check the appropriate box to indicate the final determination. **Sub-recipient** ☐ **Vendor** ☐

Name, contact information and signature of individual completing this determination:

Name/Title:	
Mailing Address:	
City/State/Zip Code:	
Phone Number:	

Signature: _____