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Provider Relief Fund: A Heads Up – *Commercial Organizations May be Subject to an External Audit Requirement*

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Commercial recipients of Provider Relief Funds (PRF) under the CARES Act must be aware of existing U.S. Department of Health and Human Services (HHS) regulations that could impose an external audit requirement on them. If affected, the organization would need to contract with a CPA firm to perform the required audit.

What are the Source Regulations?

45 Code of Federal Regulations (CFR) 75.216 and 501(i) and (j) require that “Commercial Organizations” who receive HHS awards of \$750,000 or more in a fiscal year are required to have either of the following two external audits performed within nine months of year end:

- a) A Single or program-specific audit (Single Audit) in accordance with 45 CFR Part 75 – Subpart F or
- b) A Financial-related audit of all HHS awards in accordance with *Government Auditing Standards*.

We’ll describe the nature of these two audits further on, but first, we want to address two questions that immediately come to mind – *What is considered a “Commercial Organization?”* and *What are considered “HHS Awards”?*

What is Considered a “Commercial Organization”?

Determining the scope of a potential audit is no easy task to understand and has been a source of confusion, especially for commercial providers with investment or management relationships involving a large number of organizations.

45 CFR Part 75.2 provides a basic definition of a Commercial Organization, but the scope of the audit is defined as follows in 45 CFR Part 75.514:

“The audit must cover the entire operations of the auditee or, at the option of the auditee, such audit must include a series of audit that cover departments, agencies and other organizational units that expended or otherwise administered Federal awards”.

Given 45 CFR Part 75 is the regulation requiring an audit, the two sections referenced above are what we have to work with. Historically, auditors have used *Generally Accepted Accounting Principles* (GAAP) to define the “entirety” of an auditee’s operations. HHS has been asked to clarify how this may relate to management companies who operate, but do not have a majority ownership interest in or otherwise control, separate legal entities.

What are Considered “HHS Awards”?

In short, all assistance awards from HHS are subject to audit. Though this would exclude Medicare and Medicaid payments, PRF assistance would be included, as well as any other award assistance that may be received from HHS, including COVID-19 testing for the uninsured and research and development awards from the National Institutes of Health.

45 CFR Part 75.501 states the “receipt” of HHS awards, but what does that mean? This is another question that has been posed to HHS to clarify, particularly concerning PRF. Historically, the audit scope has been applied to the “expenditure” of HHS awards and not the mere receipt of award funds or entering into awards.

What Does an Audit Look Like and How Can We Prepare?

As mentioned earlier, commercial organizations have the option of either conducting a Single Audit or a Financial-related audit. For technical reasons, commercial organizations will likely select the Financial-related audit. This audit would include an audit opinion on a Statement of Costs and Lost Revenues. It will also involve a consideration of internal controls over financial reporting and

compliance with laws and regulations impacting those amounts reported. Auditors would be required to perform this audit in accordance with *Government Auditing Standards* and report findings if identified.

First and foremost, preparing for an audit of the PRF and other HHS assistance starts with understanding and applying the program requirements. This has not been easy for PRF, with exact reporting instructions still to be received from HHS. Auditing of the HHS assistance will begin with what has been reported by your organization. Ensuring the amounts reported have been properly determined and supported will be key.

The Office of Management and Budget recently issued guidance to auditors of Single Audits in a [Compliance Supplement Addendum](#), which could be helpful in understanding HHS' expectations for auditing the PRF when using the Single Audit option. There is still some uncertainty whether HHS will apply certain provisions contained in the Compliance Supplement Addendum to the Financial-related audit option, particularly as it relates to the timing of when PRF expenditures and lost revenue would appear in the Statement of Costs and Lost Revenues and whether there will be any deadline extensions for the audits.

What Are the Next Steps for a Commercial Organization?

If you haven't already, commercial organizations should begin discussions with their CPA firm now about whether a PRF audit is required, and, if so, the scope, timing, and details of the engagement. Not all CPA firms meet the requirements to perform audits in accordance with *Government Auditing Standards*, so the earlier the communication, the better.

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