

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201



Date: March 5, 2014

Subject: Frequently Asked Questions about the Annual Independent External Audit of State-based Marketplaces (SBMs)

Below are frequently asked questions and answers (FAQs) related to the annual independent external audit required for all approved and conditionally-approved State-based Marketplaces (SBMs) by 45 CFT Parts 144, 146, 147, et al. (Program Integrity Rule, Part II). These FAQs will provide SBMs with increased understanding of the purpose and processes associated with the auditing and reporting processes.

Audits: Purpose and Governing Authority

Q1: What is the purpose of the independent external audit?

A1: External audits are a standard practice used by government and private and public sector organizations not only to determine the extent to which an organization adheres to managerial policies, procedures, and requirements but also to ensure accountability in all financial and programmatic activities.

Q2: What authority does the Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS) have to require SBMs to provide the results of an independent external audit?

A2: The Program Integrity Rule Part II (PI Reg), 45 CFR 155.1200(c) states,
The State [Marketplace] must engage an independent qualified auditing entity which follows generally accepted governmental auditing standards (GAGAS) to perform an annual independent external financial and programmatic audit and must make such information available to the U.S. Department of Health and Human Services for review.

The regulation also states that the Marketplace will submit to CMS, concurrent with the annual report, the results of the audit along with proposals on how it will remedy any material weakness or significant deficiency.

Q3: Will SBMs, State Partnership Marketplaces (SPMs) and/or Federally-facilitated Marketplaces (FFMs) be required to conduct an independent external audit?

A3: All approved and conditionally-approved SBMs are required to conduct an independent external audit.

Q4: Will CMS conduct its own audit in addition to the independent external audit?

A4: While CMS has the authority to conduct an audit of individual SBMs. CMS may conduct an audit if the results of the SBM's independent external audit, which will augment CMS' annual assessment of each SBM, indicate such action is necessary.

Compliance with Audit Business Standards

Q5: What are the compliance standards for SBMs under the independent external audit requirement?

A5: The auditor chosen by the Marketplace must comply with 45 CFR 155.1200(c). CMS proposes that the SBM engage either a governmental or private independent qualified auditing entity that meets financial accounting standards, generally accepted accounting principles (GAAP), and follows GAGAS, to perform an annual independent external financial and programmatic audit of the SBM.

Q6: May employees of the SBM conduct and complete the independent external audit?

A6: No, the auditor must be autonomous from the Marketplace. However, the preamble to the PI Reg. states that this requirement may be satisfied through an audit by an independent state- government entity. This entity must be selected to avoid any real or potential perception of conflict of interest, including being free from personal, external, and organizational impairments to independence, or the appearance of such impairments of independence.

Financial and Programmatic Audit Requirements

Q7: What financial and programmatic requirements must be addressed by the annual independent external audit?

A7: The independent audit must address the following areas:

1. Accurate accounting of Marketplace receipts and expenditures in accordance with GAAP.
2. Compliance with 45 CFR Part 155.
3. Processes and procedures designed to prevent improper eligibility determinations and enrollment transactions.
4. Identification of errors that resulted in incorrect eligibility determinations.

Q8: What should auditors consider in their reviews to address accurate accounting of Marketplace receipts and expenditures in accordance with GAAP?

A8: Suggested elements for auditors to consider include:

- SBM's financial statements and supporting documentation, including a sampling of receipts and expenditures to ensure accuracy.
- Internal controls and related financial and accounting policies and procedures.
- Policies and procedures related to fraud, waste, and abuse (FWA).
- Policies and procedures related to segregation of duties.
- Contracts, including applicable invoices, proposals, and payment records.



Q9: What specific elements can auditors review to address compliance with 45 CFR 155, Subparts C, D, E, and K?

A9 Auditors should review the requirements set forth in 45 CFR 155, Subparts C, D, E, and K and assess the SBM’s compliance with each subpart. Requirements and suggested documentation to review for each subpart are provided below:

PI Reg. Subpart	Suggested Elements to Review
<i>Subpart C—General Functions of the Exchange</i>	<ul style="list-style-type: none"> • Processes and procedures for privacy and security of navigators. • Processes and procedures for addressing complaints. • Processes and procedures for providing assistance in culturally and linguistic appropriate manner. • Training standards. • Breaches of Security or Privacy by a navigator grantee. • Standards designed to prevent and mitigate any conflicts of interest, financial or otherwise. • Confirmation that assures funding for navigator grants does not come from federal funds. • Privacy and Security Safeguards. • Call center information provided to applicants in plain language and in a manner that is accessible to individuals with disabilities and individuals with limited English proficiency.
<i>Subpart D—Exchange Functions in the Individual Market: Eligibility Determinations for Exchange Participation and Insurance Affordability Programs</i>	<ul style="list-style-type: none"> • Standard operating procedures (SOPs) and processes for making accurate eligibility determinations in compliance with Federal regulations (including resolution of inconsistencies). • Management review/internal controls associated with the prevention of improper eligibility determinations. • Management review/internal controls associated with the identification of incorrect eligibility determinations. • Management review/internal controls associated with compliance with the requirements regarding confidentiality, disclosure, maintenance, and use of information. • Current and fully executed agreements with other entities specifying their respective responsibilities in connection with eligibility determinations, including (if appropriate) those related to exemptions. • Data and records maintenance relating to eligibility verifications and determinations.
<i>Subpart E—Exchange Functions in the Individual Market: Enrollment in Qualified Health Plans</i>	<ul style="list-style-type: none"> • SOPs and processes for making accurate enrollments in compliance with Federal regulations. • Management review/internal controls associated with the prevention of improper enrollment transactions, including processes to ensure that enrollees are receiving accurate advance premium tax credits (APTCs), cost-sharing reductions (CSRs), and premiums (and for correction of any discrepancies). • Compliance with Centers for Medicare & Medicaid Services (CMS)-issued Standard Companion Guides (e.g., ASC X12 820 and 834). • Processes to reconcile enrollment information with qualified health plan (QHP) issuers and CMS no less than on a monthly basis. • Data and records maintenance relating to enrollments.
<i>Subpart K—Exchange Functions: Certification of Qualified Health Plans</i>	<ul style="list-style-type: none"> • Process for recertification of QHPs. • Process for decertification of QHPs. • Policies and procedures for certification of health plans.



Q10: What can auditors review to address processes and procedures to prevent improper eligibility determinations and enrollment transactions?

A10: Suggested elements to review include:

- Eligibility and enrollment policies and procedures.
- Internal and system controls.
- Results of internal auditing and monitoring of the eligibility and enrollment processes.

Q11: What can auditors review to address identification of errors that resulted in incorrect eligibility determinations?

A11: Suggested elements to review include:

- Eligibility policies and procedures.
- Results of internal auditing and monitoring of the eligibility process.
- Error logs and corrective actions.

Small Business Health Options Program (SHOP) Standards

Q12: What can auditors review to ensure a SHOP is compliant with the program’s standards?

A12: SHOPS must carry out all functions of an Exchange described in subparts C, E, K, and H (with a few exceptions) as well as enrollment and eligibility standards described in 45 C.F.R. 155.710, 155.715, 155.720, 155.725, 155.730, and facilitate the special enrollment periods described in 156.285(b)(2). The table below outlines the guidelines that must be adhered to by a SHOP.

SHOP Guideline	Description
<i>Eligibility Standards</i>	The SHOP is a small employer, or an employer with no less than one employee and no more than 100 employees, unless a State elects to limit enrollment in the small group market to employers with no more than 50 employees until 1/1/16. The SHOP must employ at least one common law employee. An employee would not include a sole proprietor or the sole proprietor’s spouse.
<i>Eligibility Determination for SHOP</i>	The SHOP may use the information attested to by the employer or the employee on the application but must, at a minimum verify that an individual attempting to enter the SHOP as an employee is listed on the qualified employer’s roster of employees to whom coverage is offered.
<i>Enrollment of Employees into QHPs under SHOP</i>	The SHOP must report to the Internal Revenue Service (IRS) employer participation and employee enrollment information for tax administration purposes.
<i>Enrollment Periods under SHOP</i>	Open enrollment period will be at least 30 days. Employer election period will be at least 30 days. SHOP must establish coverage effective dates consistent with 45 C.F.R. § 155.720.
<i>Application Standard for SHOP</i>	The SHOP must adhere to the application requirements outlined in 45 C.F.R. § 155.730. The SHOP must use a single application to determine employer eligibility and to collect information necessary for purchasing coverage such as employee name and address of employer’s locations; number of employees; employer identification number; and list of qualified employees and their taxpayer identification number. The SHOP must use a single application for eligibility



SHOP Guideline	Description
	determination, QHP selection and enrollment for qualified employees and their dependents. The SHOP may use the model single employer application and model single employee application provided by HHS. The SHOP may also use an alternative application if the application is approved by HHS and meets certain requirements.
<i>Special Enrollment Periods</i>	Special enrollment periods in the SHOP are based on whether an individual becomes a newly eligible qualified employee. Enrollment periods will be available to those who become qualified employees outside of the initial or annual open enrollment period.

Q13: What should be the SHOP policy on non-payment for coverage?

A13: Payment is due on the first of the month. If payment is not received within the 31-day grace period, the SHOP may terminate coverage. To be reinstated, the employer must pay prior premiums owed for coverage during the grace period and pay the premiums for the next month’s coverage.

Technology, Privacy and Security Elements

FAQs related to this topic will be forthcoming.

Audit Findings Report

Q14: Based on the financial and programmatic requirements, what type of information should be included in the audit findings report?

A14: The table below outlines suggested topics to include in the audit findings report, as stipulated by CMS and/or GAGAS. This list is not exhaustive, but provides examples of potential content that should be considered during the independent external audit.

Audit Report Topic	Report Content Examples
<i>Executive Summary</i>	<ul style="list-style-type: none"> The independent external auditor should include: <ul style="list-style-type: none"> – Purpose of the audit. – Scope of the audit, including the program areas and time period of the review. – Statement that the auditor has complied with GAGAS audit standards. – Methodology used to conduct the audit to include any quantitative and qualitative tests performed by the auditor. – Nature of confidential or sensitive information that may have been omitted. – General conclusions reached regarding SBM compliance with the financial and programmatic requirements, including compliance with GAAP.
<i>Audit Findings</i>	<ul style="list-style-type: none"> The independent external auditor should include: <ul style="list-style-type: none"> – Specific findings from both the financial and programmatic audits, including a summary of compliance or non-compliance with all requirements. – Material weaknesses, significant deficiencies, and violations found.
<i>Recommendations</i>	<ul style="list-style-type: none"> The independent external auditor should include recommended improvements to operating procedures to comply with programmatic and financial requirements. Recommendations should be detailed and benefits of implementing the recommendation.



Audit Report Topic	Report Content Examples
<i>Conclusion</i>	<ul style="list-style-type: none"> The independent external auditor should confirm the firm has reviewed relevant document documentation in compliance with CMS requirements, GAGAS, and GAAP.
<i>Intended Corrective Action Plan</i>	<ul style="list-style-type: none"> The SBM should provide detailed corrective action plans on how the Marketplace will address and correct any material weaknesses and significant deficiencies. Details should include rationale and expected completion timeline.

Q15: What format should be used to present the audit findings to CMS?

A15: The audit findings report should be completed in Microsoft Word and provided to CMS as a PDF document. CMS has provided an example template that will comply with the formatting requirements. The example template is available [here](#).

Q16: Is there any additional information that should be obtained from the auditor, in addition to the contents of the audit findings report?

A16: As a requirement of the State-based Marketplace Annual Reporting Tool (SMART), the SBM is required to obtain a signed statement from the auditor with the following information: “An independent, external auditor attests that the Marketplace has demonstrated accurate accounting of all activities, receipts, and expenditures to CMS and prepared an accurate annual financial statement in accordance with GAAP.” This statement must be uploaded as an attachment to the SMART by April 1 of each year.

[Audit Findings Report Submission and Timing](#)

Q17: When must the SBM submit the results of the independent external audit to CMS?

A17: Beginning in 2015, the final audit findings report must be completed by April 1 of each year.

Q18: How should an SBM submit the results of the annual external audit to CMS?

A18: A PDF version of the audit findings report should be submitted as part of the SMART on SERVIS.

[Audit Findings Maintenance of Records](#)

Q19: Is there a requirement to retain records of the independent external audit?

A19: Yes. The SBM, its contractors, subcontractors, and agents, as required in the PI Reg., must retain documents reviewed and completed based on the independent external audit for 10 years. Documents include records (whether paper, electronic, or other media) and other evidence of accounting procedures and practices of the SBM. These records must be sufficient and appropriate to respond to any periodic auditing, inspection or investigation of the SBM’s financial records or to enable CMS or its designee to appropriately evaluate the SBM’s compliance with Federal requirements.



Available Audit Resources

Q20: What guidance and resources are available to SBMs to perform the independent external audit and complete the audit findings report?

A20: The table below provides agency-specific and government-wide resources available to the SBM and the auditor as guidance in performing the independent external audit and completing the audit findings report.

Resource	Use	Location
<i>Generally Accepted Governmental Auditing Standards (GAGAS)</i>	<ul style="list-style-type: none"> • Framework for conducting high-quality audits with competence, integrity, objectivity, and independence. • For use by auditors of government entities, entities that receive government awards, and other audit organizations performing Yellow Book audits. 	http://www.gao.gov/yellowbook/overview
<i>Generally Accepted Accounting Principles (GAAP)</i>	<ul style="list-style-type: none"> • Authoritative source of GAAP developed by the Federal Accounting Standards Advisory Board (FASAB) for Federal entities. • Pertains to financial statements or other financial data. 	http://www.fasab.gov/accounting-standards/authoritative-source-of-gaap/
<i>OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations.</i>	<ul style="list-style-type: none"> • Standards for obtaining consistency and uniformity among Federal agencies for the audit of states, local governments, and nonprofit organizations expending Federal awards. 	http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf
<i>Audit Findings Report Example Template</i>	<ul style="list-style-type: none"> • Requirements that must be fulfilled by auditor and a sample format for submission. • Sample format for the intended correction action plan that must be submitted to CMS by the SBM. 	https://servis.cms.gov/resources/document_detail?doc_detail_id=a6f0075a-9a7f-5be3-8a2c-5316253ae230

[INSERT COMPANY
LOGO OF EXTERNAL
AUDITING FIRM
CHOSEN HERE]

**INDEPENDENT EXTERNAL AUDIT:
[YYYY] AUDIT FINDINGS REPORT
[ENTER STATE HERE]
[ENTER NAME OF STATE-BASED MARKETPLACE HERE]**



INDEPENDENT EXTERNAL AUDIT: **[XXXX] FINDINGS REPORT**

The Program Integrity Rule Part II (PI Reg II) authorizes the U.S. Department of Health and Human Services (HHS) to require every State-based Marketplace (SBM) to perform an annual financial and programmatic independent external audit and provide an intended corrective action plan, if necessary, based on the results of the audit. The Audit Findings Report (Report) must be *submitted to the Centers for Medicare & Medicaid Services (CMS) by April 1* of each year. A PDF version of the Report should be *uploaded to the State-based Marketplace Annual Reporting Tool (SMART) via SERVIS*. This template only serves as a guide; it is therefore not exhaustive of the information that may be required in the submitted Report.

TO: CCIIO STATE EXCHANGE GROUP

FROM: [ENTER NAME OF AUDITING FIRM CHOSEN BY SBM HERE]

DATE: [MONTH] [DD], [YYYY]

SUBJECT: AUDIT FINDINGS REPORT FOR [ENTER NAME OF STATE HERE]

I. EXECUTIVE SUMMARY

PURPOSE

Describe the purpose and scope of the independent external audit. This statement should describe why the SBM has asked the auditing firm to conduct the audit. Information that should be provided in this section includes:

- Purpose statement
- Name of State and SBM
- Name of auditing firm
- Auditing firm's responsibilities during the audit

A sample purpose statement has been provided below as a reference.

“The purpose of this independent external audit is to ensure that [ENTER NAME OF STATE HERE] is in compliance with the financial and programmatic requirements set forth by the Centers for Medicare & Medicaid Services (CMS).”

SCOPE

Describe the breadth of information reviewed during the audit that formed the basis of the auditing firm's Key Findings. Information that should be provided in this section includes:

- List of applicable financial documents (e.g., income statements) reviewed to prepare financial statement
- Programmatic requirements addressed
- Oversight and monitoring policies and procedures

METHODOLOGY

Describe the process and methodology used by the auditing firm to perform the independent external audit. The process and methodology may include business standards, interviews conducted, and sampling methodology used to validate data and provide the audit's Key Findings. Information that should be provided in this section includes:

- Background and expertise of auditing firm in financial and programmatic independent external audits
- Financial and auditing standards that were followed by the SBM and the auditing firm:
 - Generally Accepted Governmental Auditing Standards (GAGAS)
 - This should include an official auditor's statement that the auditing firm complies with GAGAS
 - Generally Accepted Accounting Principles (GAAP)
 - This should include a statement as to whether the SBM's accounting practices and financial statements comply with GAAP
- Interviews with key SBM officials and/or staff to understand management and staff responsibilities and processes
- Sampling methodology to validate documents and statistics collected to perform the audit, and ultimately form a risk assessment and suggested corrective actions, such as:
 - Quantitative samples (e.g., number of people enrolled, number of people improperly enrolled)
 - Qualitative samples (e.g., policies and procedures on management, governance, conflicts of interest, staff training requirements)

CONFIDENTIAL INFORMATION OMITTED

If applicable, and per GAGAS requirements, describe the nature of any confidential or sensitive information that may have been omitted from the audit process. This may include, but not be limited to, any Personal Health Information, Personally Identifiable Information or that deemed confidential under state law. If this section does not apply, enter "N/A."

II. AUDIT FINDINGS

KEY FINDINGS

Based on the documentation reviewed, interviews conducted, and sampling methodology, provide key findings that require SBM actions or change/adjustment in SBM practices, policies, and procedures. While the auditing firm may highlight processes that the SBM does well, findings should include references to any material weakness and/or significant deficiencies. Findings should include the condition, criteria for judgment, root cause of the issue, and effect on the SBM's operations and/or beneficiaries.

AUDITOR'S OPINION

An independent external auditor who reviews an SBM's records and helps produce the financial statements provides the auditor's opinion. This opinion expresses the auditor's assessment of the procedures and records used to produce the statements, and the auditor's judgment of whether or not the financial statements present an accurate picture of the SBM's financial condition. Definitions of

the types of auditor's opinions (see below) that can be provided are outlined in Appendix A of this document.

Based on the Key Findings above, it is [ENTER NAME OF AUDIT FIRM] opinion that the accounting practices and financial statements reviewed during the [YYYY] independent external audit are:

QUALIFIED UNQUALIFIED ADVERSE DISCLAIMER

ADDITIONAL COMMENTS

The auditor may provide additional justification for the auditor's opinion identified above.

III. RECOMMENDATIONS

The auditor should provide a numerical list of recommendations that would help improve the SBM's financial and programmatic procedures. A sample format has been included below as a reference.

1. One Complete Sentence Summarizing the Recommendation

Provide a detailed justification to help the SBM understand why the recommendation has been included and the benefits of implementing the recommendation.

The PI Reg II also requires the SBM to complete an intended corrective action plan, if needed, based on the Key Findings and recommendations included in the Report. Additional guidance to fulfill this requirement and a sample format for the intended corrective action plan can be found in Appendix B of this document.

IV. CONCLUSION

We confirm to the best of our knowledge that the information included in this Audit Findings Report is accurate and based on a thorough review of the documentation required for this report.

SIGNATURE OF AUDIT FIRM:

[SIGNATURE OF LEAD AUDITOR]

COMPLETION DATE OF AUDIT FINDINGS REPORT:

[MM/DD/YYYY]

APPENDIX A: TYPES OF AUDITOR'S OPINIONS

An audit opinion is expressed on audited financial statements. An auditor must state in his or her opinion that generally accepted accounting principles (GAAP) have been followed and that they have been applied on a basis consistent with that used the previous year. The four common types of auditor's opinions as defined by the American Institute of Certified Public Accountants (Reports on Audited Financial Statements, AU §508.10) are outlined below.

Unqualified opinion: States that the financial statements present fairly, in all material respects, the financial position, results of operations, and cash flows of the entity in conformity with generally accepted accounting principles.

Explanatory language added to the auditor's standard report: Certain circumstances, while not affecting the auditor's unqualified opinion on the financial statements, may require that the auditor add an explanatory paragraph (or other explanatory language) to his or her report.

Qualified opinion: States that, except for the effects of the matter(s) to which the qualification relates, the financial statements present fairly, in all material respects, the financial position, results of operations, and cash flows of the entity in conformity with generally accepted accounting principles.

Adverse opinion: States that the financial statements do not present fairly the financial position, results of operations, or cash flows of the entity in conformity with generally accepted accounting principles.

Disclaimer of opinion: States that the auditor does not express an opinion on the financial statements.

Date: June 18, 2014

Subject: Frequently Asked Questions about the Annual Independent External Audit of State-based Marketplaces (SBMs)

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A11: Suggested elements to review include:

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- Error logs and corrective actions.



Technology, Privacy, and Security Elements

Q12: What technology, privacy, and security controls can auditors review to ensure compliance with the regulatory requirements in 45 CFR Part 155?

A12: To address the technology, privacy and security programmatic requirements of the Independent External Audit, SBMs will need to coordinate with their auditors to establish and implement an annual audit process. The assessment procedures must take into consideration the regulatory requirements and the associated legal agreements that states signed with non-Marketplace entities and with CMS, and ultimately provide the results to HHS.

CMS expects states to establish a program that allows reuse of audits, security reviews, privacy assessments, and other relevant reviews, based on the controls documented in the system security plan (SSP), to demonstrate a successful and ongoing oversight and monitoring (O&M) program. CMS also expects states to submit the required artifacts to adhere to the Minimum Acceptable Risk Standards for Exchanges (MARS-E) standards (e.g., system security plan, security assessment report, plan of action and milestones, privacy impact assessment).

As the state compliance program matures, CMS expects the ongoing external audits to address the artifacts review that CMS currently performs. Eventually, CMS may elect to rely on the external audit report(s) rather than request separate artifact submissions.

Q13: What are the guiding principles that should be in place to shape privacy and security standards, policies, and supporting procedures?

A13: The table below outlines the principles that must be adhered to when implementing privacy and security standards, as stipulated by 45 CFR 155.260(a)(3).

Principle	Description
<i>Individual Access</i>	Individuals should be provided with a simple and timely means to access and obtain their personally identifiable information (PII) in a readable form and format.
<i>Correction</i>	Individuals should be provided with a timely means to dispute the accuracy or integrity of their PII and to have erroneous information corrected or to have a dispute documented if their requests are denied.
<i>Openness and Transparency</i>	There should be openness and transparency about policies, procedures, and technologies that directly affect individuals and/or their PII.
<i>Individual Choice</i>	Individuals should be provided a reasonable opportunity and capability to make informed decisions about the collection, use, and disclosure of their PII.
<i>Collection, Use, and Disclosure</i>	PII should be created, collected, used, and/or disclosed only to the extent necessary to accomplish a specified purpose(s) and never to discriminate inappropriately.



Principle	Description
<i>Data Quality and Integrity</i>	Persons and entities should take reasonable steps to ensure that PII is complete, accurate, and up-to-date to the extent necessary for the person's or entity's intended purposes and has not been altered or destroyed in an unauthorized manner.
<i>Safeguards</i>	PII should be protected with reasonable operational, administrative, technical, and physical safeguards to ensure its confidentiality, integrity, and availability and to prevent unauthorized or inappropriate access, use, or disclosure.
<i>Accountability</i>	These principles should be implemented, and adherence assured through appropriate monitoring and other means and methods should be in place to report and mitigate non-adherence and breaches.

Q14: What type of policies and procedures should be in place to report and respond to an identified privacy or security incident?

A14: Per the MARS-E, each SBM is required to develop and document a set of policies and procedures that serve as the foundation for its incident response program. These policies and procedures must be a written document, approved and signed by management, which addresses the purpose, scope, roles, and responsibilities within the program. Additionally, these documents need to be detailed and ensure consistency and effectiveness based on the unique requirements of the state, which is determined by its size and structure. These policies must be supported by an incident response plan that includes detailed, state-specific procedures for management and staff to follow. Furthermore, as part of its annual assessment process, each state must ensure that management and staff are aware of their roles and responsibilities, and are trained appropriately on a regular basis.

SBMs must report all suspected or confirmed incidents, whether or not they contain Personally Identifiable Information (PII), within one hour of discovery. SBMs must follow the requirements of their legal agreements with CMS. SBMs that connect to the Federal Data Services Hub (FDSH) must sign the Interconnection Security Agreement (ISA), the Computer Matching Agreement (CMA), and the Information Exchange Agreement (IEA). Each written legal agreement has incident reporting requirements that, when combined, require the SBM to report all incidents to CMS. These requirements apply to all system environments (i.e., production, pre-production, test, development). After the initial reporting of an incident, CMS and SBM personnel will continue to work together for the duration of the incident.

Any suspected loss, breach, or misuse of Federal Tax Information (FTI) must be reported within 24 hours to the IRS Office of Safeguards by email to safeguardreports@irs.gov, and by telephone to the Treasury Inspector General for Tax Administration (TIGTA) at 1 (800) 589-3718. An SBM should not wait until its own internal investigation has been conducted to report an incident to CMS, TIGTA, and the IRS.



Q15: If the SBM is sharing data with a third party on a regular basis, what type of agreements should be in place to adhere to privacy and security standards?

A15: The SBM should ensure:

- All agreements bind the other party to meet the requirements specified within 45 C.F.R. 155.260(a)(3) including the ISA, CMA and IEA.
- When providing PII to agencies administering Medicaid or Children’s Health Insurance Program (CHIP) programs, the matching and/or sharing arrangements that facilitate the movement of eligibility information must meet the requirements in 45 C.F.R. 155.260, Sections 1413(c)(1) and (c)(2) of the Affordable Care Act (ACA), and Section 1942 of the Social Security Act.
- When interacting with a non-Marketplace entity other than Medicaid/CHIP agencies, such as a Navigator or agent/broker, privacy language must be included within the appropriate agreement required under 45 C.F.R. 155.260(b).

Small Business Health Options Program (SHOP) Standards

Q16: What can auditors review to ensure a SHOP is compliant with the program’s standards?

A16: SHOPS must carry out all functions of an Exchange described in subparts C, E, K, and H (with a few exceptions) as well as enrollment and eligibility standards described in 45 C.F.R. 155.710, 155.715, 155.720, 155.725, 155.730, and facilitate the special enrollment periods described in 156.285(b)(2). The table below outlines the guidelines that must be adhered to by a SHOP.

SHOP Guideline	Description
<i>Eligibility Standards</i>	The SHOP is a small employer, or an employer with no less than one employee and no more than 100 employees, unless a State elects to limit enrollment in the small group market to employers with no more than 50 employees until 1/1/16. The SHOP must employ at least one common law employee. An employee would not include a sole proprietor or the sole proprietor’s spouse.
<i>Eligibility Determination for SHOP</i>	The SHOP may use the information attested to by the employer or the employee on the application but must, at a minimum verify that an individual attempting to enter the SHOP as an employee is listed on the qualified employer’s roster of employees to whom coverage is offered.
<i>Enrollment of Employees into QHPs under SHOP</i>	The SHOP must report to the Internal Revenue Service (IRS) employer participation and employee enrollment information for tax administration purposes.
<i>Enrollment Periods under SHOP</i>	Open enrollment period will be at least 30 days. Employer election period will be at least 30 days. SHOP must establish coverage effective dates consistent with 45 C.F.R. § 155.720.



SHOP Guideline	Description
<i>Application Standard for SHOP</i>	The SHOP must adhere to the application requirements outlined in 45 C.F.R. § 155.730. The SHOP must use a single application to determine employer eligibility and to collect information necessary for purchasing coverage such as employee name and address of employer’s locations; number of employees; employer identification number; and list of qualified employees and their taxpayer identification number. The SHOP must use a single application for eligibility determination, QHP selection and enrollment for qualified employees and their dependents. The SHOP may use the model single employer application and model single employee application provided by HHS. The SHOP may also use an alternative application if the application is approved by HHS and meets certain requirements.
<i>Special Enrollment Periods</i>	Special enrollment periods in the SHOP are based on whether an individual becomes a newly eligible qualified employee. Enrollment periods will be available to those who become qualified employees outside of the initial or annual open enrollment period.

Q17: What should be the SHOP policy on non-payment for coverage?

A17: Payment is due on the first of the month. If payment is not received within the 31-day grace period, the SHOP may terminate coverage. To be reinstated, the employer must pay prior premiums owed for coverage during the grace period and pay the premiums for the next month’s coverage.

Audit Findings Report

Q18: Based on the financial and programmatic requirements, what type of information should be included in the audit findings report?

A18: The table below outlines suggested topics to include in the audit findings report, as stipulated by CMS and/or GAGAS. This list is not exhaustive, but provides examples of potential content that should be considered during the independent external audit.

Audit Report Topic	Report Content Examples
<i>Executive Summary</i>	<ul style="list-style-type: none"> • The <i>independent external auditor</i> should include: <ul style="list-style-type: none"> – Purpose of the audit. – Scope of the audit, including the program areas and time period of the review. – Statement that the auditor has complied with GAGAS audit standards. – Methodology used to conduct the audit to include any quantitative and qualitative tests performed by the auditor. – Nature of confidential or sensitive information that may have been omitted. – General conclusions reached regarding SBM compliance with the financial and programmatic requirements, including compliance with GAAP.
<i>Audit Findings</i>	<ul style="list-style-type: none"> • The <i>independent external auditor</i> should include: <ul style="list-style-type: none"> – Specific findings from both the financial and programmatic audits, including a summary of compliance or non-compliance with all requirements. – Material weaknesses, significant deficiencies, and violations found.



Audit Report Topic	Report Content Examples
<i>Recommendations</i>	<ul style="list-style-type: none"> The <i>independent external auditor</i> should include recommended improvements to operating procedures to comply with programmatic and financial requirements. Recommendations should be specific, measurable, attainable, realistic, and time bound.
<i>Conclusion</i>	<ul style="list-style-type: none"> The <i>independent external auditor</i> should confirm the firm has reviewed relevant document documentation in compliance with CMS requirements, GAGAS, and GAAP.
<i>Intended Corrective Action Plan</i>	<ul style="list-style-type: none"> The <i>SBM</i> should provide detailed corrective action plans on how the Marketplace will address and correct any material weaknesses and significant deficiencies. Details should include rationale and expected completion timeline.

Q19: What format should be used to present the audit findings to CMS?

A19: The audit findings report should be completed in Microsoft Word and provided to CMS as a PDF document. CMS has provided an example template that will comply with the formatting requirements. The example template is available.

Q20: Is there any additional information that should be obtained from the auditor, in addition to the contents of the audit findings report?

A20: As a requirement of the State-based Marketplace Annual Reporting Tool (SMART), the SBM is required to obtain a signed statement from the auditor with the following information: “An independent, external auditor attests that the Marketplace has demonstrated accurate accounting of all activities, receipts, and expenditures to CMS and prepared an accurate annual financial statement in accordance with GAAP.” This statement must to be uploaded as an attachment to the SMART by April 1 of each year.

Audit Findings Report Submission and Timing

Q21: When must the SBM submit the results of the independent external audit to CMS?

A21: Beginning in 2015, the final audit findings report must be completed by April 1 of each year.

Q22: How should an SBM submit the results of the annual external audit to CMS?

A22: A PDF version of the audit findings report should be submitted as part of the SMART on SERVIS.

Audit Findings Maintenance of Records

Q23: Is there a requirement to retain records of the independent external audit?

A23: Yes. The SBM, its contractors, subcontractors, and agents, as required in the PI Reg., must retain documents reviewed and completed based on the independent external audit for 10 years. Documents include records (whether paper, electronic, or other media) and other evidence of



accounting procedures and practices of the SBM. These records must be sufficient and appropriate to respond to any periodic auditing, inspection or investigation of the SBM’s financial records or to enable CMS or its designee to appropriately evaluate the SBM’s compliance with Federal requirements.

Available Audit Resources

Q24: What guidance and resources are available to SBMs to perform the independent external audit and complete the audit findings report?

A24: The table below provides agency-specific and government-wide resources available to the SBM and the auditor as guidance in performing the independent external audit and completing the audit findings report.

Resource	Use	Location
<i>Generally Accepted Governmental Auditing Standards (GAGAS)</i>	<ul style="list-style-type: none"> • Framework for conducting high-quality audits with competence, integrity, objectivity, and independence. • For use by auditors of government entities, entities that receive government awards, and other audit organizations performing Yellow Book audits. 	http://www.gao.gov/yellowbook/overview
<i>Generally Accepted Accounting Principles (GAAP)</i>	<ul style="list-style-type: none"> • Authoritative source of GAAP developed by the Federal Accounting Standards Advisory Board (FASAB) for Federal entities. • Pertains to financial statements or other financial data. 	http://www.fasab.gov/accounting-standards/authoritative-source-of-gaap/
<i>OMB Circular A–133, Audits of States, Local Governments and Non-Profit Organizations).</i>	<ul style="list-style-type: none"> • Standards for obtaining consistency and uniformity among Federal agencies for the audit of states, local governments, and nonprofit organizations expending Federal awards. 	http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf
<i>Audit Findings Report Example Template</i>	<ul style="list-style-type: none"> • Requirements that must be fulfilled by auditor and a sample format for submission. • Sample format for the intended correction action plan that must be submitted to CMS by the SBM. 	https://servis.cms.gov/resources/document_detail?doc_detail_id=a6f0075a-9a7f-5be3-8a2c-5316253ae230



State-based Marketplace Independent External Audit Technical Assistance

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OVERVIEW

The Program Integrity Rule Part II (“PI Reg.”), 45 CFR §155.1200 (c), states, “The State [Marketplace] must engage an independent qualified auditing entity which follows generally accepted governmental auditing standards (GAGAS)¹ to perform an annual independent external financial and programmatic audit and must make such information available to the U.S. Department of Health and Human Services for review.”

Independent external audits are a standard practice used by government, and private and public sector organizations to ensure accountability in all financial and programmatic activities and to determine whether an organization adheres to policies, procedures, and requirements.

The Independent External Audit requirement includes both financial and programmatic components. As outlined in 45 CFR §155.1200(a)(1), the financial audit component focuses on compliance with requirements related to accurate accounting of Marketplace receipts and expenditures in accordance with generally accepted accounting principles (GAAP). Programmatic or performance audits are defined as audits that provide findings or conclusions based on an evaluation of sufficient, appropriate evidence against particular criteria. SBMs may use the information in this document as a reference or checklist to ensure all CMS requirements and expectations are addressed.

SELECTION OF AN AUDIT ENTITY

Each SBM must select an independent external auditor to perform the annual independent external (financial and programmatic) audit. On June 18, 2014, the Centers for Medicare & Medicaid (CMS) issued frequently asked questions (FAQs) for SBMs (see Frequently Asked Questions about the Annual Independent External Audit of State-based Marketplaces (SBMs) that addressed the selection of an audit entity). A summary of the FAQs is provided in this section:

- The auditor chosen by the Marketplace must comply with 45 CFR §155.1200(c). CMS proposes that the SBM engage either a governmental or private independent qualified auditing entity that meets financial accounting standards, GAAP, and follows GAGAS, to perform an annual independent external financial and programmatic audit of the SBM.
- The auditor must be autonomous from the Marketplace. However, the preamble to the PIReg. states that this requirement may be satisfied through an audit by an independent state-government entity. This entity must be selected to avoid any real or potential perception of conflict of interest, including being free from personal, external, and organizational impairments to independence, or the appearance of such impairments of independence.

KEY CONSIDERATIONS FOR THE PROGRAMMATIC COMPONENT OF THE INDEPENDENT EXTERNAL AUDIT

SCOPE

In accordance with 45 CFR §155.1200, the annual financial and programmatic components of the audit must address:

¹ The Government Accountability Office (GAO) outlines requirements for conducting audits in accordance with GAGAS in its publication *Government Auditing Standards* (See <http://www.gao.gov/products/GAO-12-331G>).

- Compliance with accounting requirements specified in 45 CFR §155.1200(a)(1)
- Compliance with all subparts of 45 CFR Part 155, which are:
 - General Standards (Subpart B),
 - General functions (Subpart C),
 - Eligibility Determinations (Subpart D),
 - Enrollment Functions (Subpart E),
 - Appeals of Eligibility Determinations (Subpart F),
 - Exemptions (Subpart G),
 - SHOP (Subpart H),
 - Certification of Qualified Health Plans (Subpart K)
 - Oversight and Program Integrity Standards (Subpart M)
 - State Flexibility (Subpart N)
 - Quality Reporting Standards (Subpart O)
 - *Subparts I, J, and L are reserved for future use;*
- Processes and procedures designed to prevent improper eligibility determinations and enrollment transactions; and
- Identification of errors that resulted in incorrect eligibility determinations.

The remainder of this document will focus on the programmatic component of the independent external audit. Within 45 CFR Part 155, key subparts make up the core functions of Marketplace operations and affect a large number of consumers. Thus, the Center for Consumer Information and Insurance Oversight (CCIIO) suggests that auditors address the following key areas:

- Under Subpart C (General Functions of an Exchange), key standards include those related to:
 - Consumer Assistance programs, including Marketplace call centers, the Marketplace's Internet website, accessibility for consumers living with disabilities and/or limited English proficiency, and consumer outreach and education;
 - Navigator programs;
 - Agent and brokers;
 - Certified application counselors;
 - Notices to individuals and employers;
 - Payment of premium; and
 - Privacy and security (SBMs are obligated to adhere to MARS-E for implementing their privacy and security controls).
- Under Subpart D (Exchange Functions in the Individual Market: Eligibility Determinations for Exchange Participation and Insurance Affordability Programs), key standards include those related to:
 - Conducting eligibility determinations;
 - Verification of eligibility for enrollment in both a Qualified Health Plan (QHP) and/or insurance affordability programs;
 - Redeterminations, both during the benefit year and the annual open enrollment period;
 - Administration of payments of advanced premium tax credits (APTCs) and cost sharing reductions;
 - Coordination with Medicaid, Children's Health Insurance Program (CHIP), the Basic Health Program, and the Pre-existing Condition Insurance Program; and
 - Special processes and requirements for Indians.
- Under Subpart E (Exchange Functions in the Individual Market: Enrollment in Qualified Health Plans), key standards include those related to:
 - Streamlined applications;
 - Initial and annual open enrollment periods;

- Application assisters;
- Special enrollment periods; and
- Termination of coverage.
- Under Subpart K (Certification of Qualified Health Plans), key standards include those related to:
 - Certification, recertification, and decertification process;
 - Rates and benefits;
 - Application of advanced premium tax credit (APTC) payments and cost sharing reduction;
 - Transparency in coverage;
 - Accreditation;
 - Network adequacy standards;
 - Service areas; and
 - Standalone dental plans.

OBJECTIVES

The programmatic audit objective categories listed below are based on GAGAS guidance. Each audit objective category includes examples of actual audit objectives:

- Program Effectiveness and Results
 - Assessing the current status or condition of program operations or progress in implementing legislative requirements;
 - Analyzing the relative cost-effectiveness of a program or activity;
 - Determining whether a program produced intended results or produced results that were not consistent with the program's objectives; and
 - Assessing the relative ability of alternative approaches to yield better program performance or eliminate factors that inhibit program effectiveness.
- Compliance
 - Assessing the extent to which legislative, regulatory, or organizational goals and objectives are being achieved; and
 - Determining the current status of program operations in implementing legislative requirements.
- Analysis
 - Assessing the extent to which programs duplicate, overlap, or conflict with other related programs.
- Internal Controls
 - Assessing the extent to which internal control provides reasonable assurance about whether:
 - Resources, including sensitive information accessed or stored from within or outside the organization's physical perimeter, are safeguarded against unauthorized acquisition, use, or disposition;
 - Management information, such as performance measures, and public reports are complete, accurate, and consistent to support performance and decision making;
 - Integrity of information from computerized systems is maintained; and
 - Contingency planning for information systems provides essential back-up to prevent unwarranted disruption of the activities and functions that the systems support.

Internal controls serve as the foundation of an organization's operations. Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission,

goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations, and management’s system for measuring, reporting, and monitoring program performance. It is suggested that internal controls be a major focus of the audit, because weaknesses in these areas can be an indication of issues in other programmatic audit categories.

These internal control audit objectives are designed to provide reasonable assurance of achieving effective and efficient operations, reliable financial and performance reporting, or compliance with applicable laws and regulations. Internal control objectives also may be relevant when determining the cause of unsatisfactory program performance.

AUDIT PROCEDURES

The independent external auditor can define his or her own methodology, as long as guidelines set forth in GAGAS are followed. The auditor should consider including the following, audit, or similar, procedures in his or her field work and associated test steps:

- Review of policies and procedures;
- Review of staff training materials;
- Review notices to consumers;
- Randomly select and interview Marketplace staff members to determine understanding of Marketplace requirements;
- Select a sample of eligibility files to validate proper processing;
- Select a sample of enrollment files to validate proper processing;
- Review completed QHP issuer applications for compliance with certification requirements;
- Test a sample of the SBM System Security Plan (SSP) or review the independent assessor’s most recent Security Assessment Report; and
- Test data reliability.

REPORTING

The table below outlines suggested topics to include in the audit findings report, as stipulated by CMS and/or GAGAS. This list is not exhaustive, but provides examples of content that should be considered during the independent external audit.

Audit Report Topic	Report Content Examples
<i>Executive Summary</i>	<ul style="list-style-type: none"> • The independent external auditor should include: <ul style="list-style-type: none"> – Purpose of the audit. – Scope of the audit, including the program areas and time period of the review. – Statement that the auditor has complied with GAGAS audit standards. – Methodology used to conduct the audit to include any quantitative and qualitative tests performed by the auditor. – The nature of confidential or sensitive information possibly omitted. – General conclusions reached regarding SBM compliance with the financial and programmatic requirements, including compliance with GAAP.
<i>Audit Findings</i>	<ul style="list-style-type: none"> • The independent external auditor should include: <ul style="list-style-type: none"> – Specific audit findings, including a summary of compliance or non-compliance with all requirements. – Material weaknesses, significant deficiencies, and violations found.
<i>Recommendations</i>	<ul style="list-style-type: none"> • The independent external auditor should include recommended improvements to operating procedures to comply with programmatic and financial requirements. Recommendations should be specific, measurable, attainable, realistic, and time

Audit Report Topic	Report Content Examples
	bound.
<i>Conclusion</i>	<ul style="list-style-type: none"> The independent external auditor should confirm the auditing entity has reviewed relevant documentation and determined that the SBM is in compliance with CMS requirements, GAGAS, and GAAP.
<i>Corrective Action Plan</i>	<ul style="list-style-type: none"> The SBM should provide detailed corrective action plans on how the Marketplace will address and correct any material weaknesses and significant deficiencies. Details should include rationale and expected completion timeline.

Each SBM and its independent external auditor may define the report contents and structure. The audit findings report should be provided to CMS as a PDF document. CMS has provided SBMs with an example report template. The template is available at:

https://servis.cms.gov/resources/document_detail?doc_detail_id=a6f0075a-9a7f-5be3-8a2c-5316253ae230

CORRECTIVE ACTION PLANS:

For any material weakness or significant deficiency identified in the audit, the SBM must develop a corrective action plan (CAP) and notify HHS (45 CFR §155.1200(c)(2)). A CAP is a step-by-step plan of action that is developed to resolve the identified issues. CCIIO recommends that the Marketplace include the following key components in its CAP:

- Description of the identified weakness or deficiency and of the root cause of such weakness;
- Proposed action steps resolve the weakness or deficiency;
- Timeline for implementing the action steps;
- Plan for monitoring the implementation; and
- Plan for validating that the implemented steps correct the weakness or deficiency.

Keep the following tips in mind when developing an effective CAP:

- Engage Subject Matter Experts (SMEs) in the CAP development and implementation process;
- Determine the underlying cause of the weakness or deficiency;
- Perform, when appropriate, a cost benefit analysis to determine which corrective actions are most cost effective;
- Set achievable deadlines, targets and milestones;
- Evaluate and monitor the corrective action progress to ensure compliance.

SHARING RESULTS WITH HHS

Each Marketplace must submit the results of its annual independent audit to HHS and inform HHS of any material weakness or significant deficiencies identified in the audit. The Marketplace must also develop and inform HHS of a corrective action plan for such material weakness or significant deficiencies.

In addition, as a requirement of the State-based Marketplace Annual Reporting Tool (SMART), to be completed by April 1 of each year, the Marketplace must attest to whether the auditor completed the required annual financial and programmatic audit. The Marketplace is required to make public a summary of the results of the external audit. A PDF version of the audit findings report should be submitted as part