

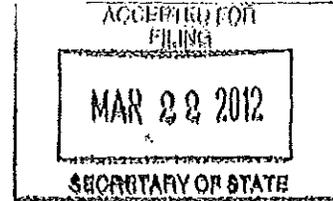
PROVISIONAL ADOPTION

Rule-Making Cover Sheet

LR-2012-14

TO: Secretary of State

ATTN: Administrative Procedure Officer
State House Station #101, Augusta, Maine 04333



1. Agency: Department of Health and Human Services, Finance, Division of Audit
2. Agency Umbrella Unit and Number: 10-144
3. Title of rule(s): Maine Uniform Accounting and Auditing Practices for Community Agencies.
4. Chapter number assigned to the rule(s): Chapter 30
5. Date(s)/method(s) of notice: Notice of Rule-making 2011-P261 11/30/2011, Kennebec Journal, Bangor Daily News, Lewiston Sun, Waterville Sentinel and Portland Press Herald.

6. Date(s)/place(s) of hearing(s): Date: December 16, 2011
Place Department of Health and Human Services
442 Civic Center Drive, Augusta, Maine

7. Type of rule: new rule partial amendment(s) of existing rule
 suspension of existing rule repeal of rule emergency rule
 repeal and replace: complete replacement of existing chapter, with former version simultaneously repealed

8. Name/phone of agency contact person: Carol P. Thompson, CPA, (207)-287-2775

9. If a major substantive Rule under Title 5, c.375, subchapter II-A, check one of the following:

- Provisional adoption Final adoption Emergency adoption

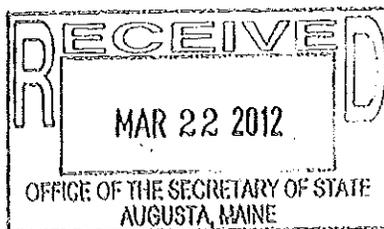
10. Certification Statement: I, Mary C. Mayhew, hereby certify that the attached is a true copy of the rule(s), described above and is lawfully adopted by

The Department of Health and Human Services on 3/22/12
(name of agency) (date)

Mary C. Mayhew
Signature
Mary C. Mayhew, Commissioner
Printed Name & Title

11. Approved as to form and legality by the Attorney General on 3/12/2012
(date)

Thomas C. Bradley
Signature (original signature, personally signed by an Assistant Attorney General)
Thomas C. Bradley
Printed Name



10-144

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Chapter 30

MAINE UNIFORM ACCOUNTING AND AUDITING
PRACTICES FOR COMMUNITY AGENCIES
(MAAP)

EFFECTIVE DATE
JULY 1, 2012

Effective January 1, 1987

Amended Effective, July 1, 1989

Amended Effective December 28, 1996

Amended Effective December 16, 2006

Repealed and Replaced Effective January 2, 2011

Repealed and Replaced – EMERGENCY – Effective July 1, 2011

Repealed and Replaced – Effective October 4, 2011

MAAP RULES

TABLE OF CONTENTS

	Page
.01 APPLICABILITY AND DEFINITIONS	1
A. Purpose and Applicability	2
B. Definitions.....	2
.02 ACCOUNTING AND FINANCIAL MANAGEMENT STANDARDS FOR COMMUNITY AGENCIES	7
A. Standards for Presentation of Financial Statements.....	7
1. Federal Standards.....	7
2. Department Standards.....	8
B. Standards for Financial Statements	8
C. Standards for Schedule of Expenditures of Department Agreements (SEDA).....	9
D. Standards for Retention of Financial and Administrative Records.....	10
E. Internal Control Standards	11
F. Reporting Timetables.....	11
G. Sanctions.....	11
.03 AUDIT REQUIREMENTS	12
A. Audit Responsibilities of Community Agencies.....	12
1. Federal Audit Requirement.....	12
2. Department Audit Requirement	13
B. Department Audit Reporting Standards	13
1. Independent Auditors' Report.....	13
2. Report on Internal Control Over Financial Reporting	13
3. Report on Compliance	14
4. Schedule of Findings and Questioned Costs.....	15
C. Audit Compliance Testing Standards	15
1. Testing of Agreements and 50% Rule	16
2. Criteria for Low-Risk Auditee	16
3. Materiality.....	17
4. Compliance Criteria	17
4. IPA's Reports.....	17
5. IPA's Workpapers.....	17
D. Department Examinations.....	17
.04 STANDARD ADMINISTRATIVE REQUIREMENTS AND COMPLIANCE FOR DEPARTMENT AGREEMENTS	19
A. Adoption of Federal OMB Circulars and Common Rule	19
1. Applicability	20
B. Compliance Requirements	20
1. Agreement Compliance.....	21
C. Administrative Requirements	21
1. Contractual Process.....	21
2. Pro Forma.....	21
3. Revisions of Budgets and Program Plans	22
4. Cost Sharing Settlements (Multiple Funding Sources).....	22
5. Liquidation of Outstanding Balances.....	23

	6.	Examination Process	23
D.		Department Appeals, Resolutions and Sanctions.....	23
	1.	Appeals Procedures.....	23
	2.	Resolution of Appeals	24
	3.	Sanctions.....	25
.05		DEPARTMENT RESPONSIBILITIES	26
	A.	Administrative Responsibilities	26
	B.	Audit Oversight and Examination Responsibilities	27

APPENDICES

A -	Schedule of Expenditures of Department Agreements (SEDA)	29
B -	Instructions for Completion of Schedule of Expenditures of Department Agreements..	31
C -	Illustrative Auditor's Report	34
D -	Schedule of Findings and Questioned Costs.....	36
E -	Agreement Compliance Form.....	40
F -	Pro Forma	41
G -	Agreement Closeout Report.....	42
H -	Agreement Settlement Form.....	44

10 - 144 DEPARTMENT OF HEALTH AND HUMAN SERVICES
Chapter 30 MAINE UNIFORM ACCOUNTING AND AUDITING PRACTICES FOR
COMMUNITY AGENCIES

SECTION .01

APPLICABILITY AND DEFINITIONS

A. PURPOSE AND APPLICABILITY

EFFECTIVE DATE: July 1, 2012

Pursuant to 5 M.R.S.A. Section 1660-H, this document presents implementing regulations for the Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP). The regulations establish accounting, audit and administrative requirements for community agencies receiving financial assistance in the form of agreements with the Department.

The Accounting and Financial Management Standards for Community Agencies (Section .02) provide a framework of standards of accountability over Department agreement funds received by community agencies. The rules prescribe internal control standards and financial reporting standards for every community agency receiving agreement funding from the Department. Total amounts of agreement expenditures will determine whether community agencies must submit entity-wide audited financial statements and a compliance audit or reviewed entity-wide financial statements and supplemental Schedule of Expenditures of Department Awards (SEDA). All community agencies with \$50,000 or more of annual agreement expenditures are responsible for a Schedule of Expenditures of Department Agreements.

The Audit Requirements (Section .03) provide rules to assist Independent Public Accountants (IPA) in auditing Department agreements with community agencies. The rules define those community agencies which must obtain audits of entity-wide financial statements and Schedule of Expenditures of Department Agreements and compliance with applicable laws and regulations. This document recognizes the federal audit requirements of Office of Management and Budget Circular A-133 as applicable to community agencies and builds upon those requirements.

1. These rules require all community agencies with total agreement expenditures of at least \$500,000 per year to have an entity-wide financial audit conducted by a qualified IPA and to have a compliance audit of the SEDA.
2. Community agencies with less than \$500,000 per year in total agreement expenses are not required to have an entity-wide financial audit or compliance audit of the SEDA conducted by a qualified IPA.

Standard Administrative Requirements and Compliance for Department agreements (Section .04) provide uniform rules for Department agreements with community agencies to include such areas as standard cost principles, and additional compliance requirements.

The Department Responsibilities (Section .05) define the duties of Department program and audit personnel in administering agreements under these rules.

The Commissioner of the Maine Department of Health and Human Services is responsible for the administration of these regulations.

B. DEFINITIONS

Unless the context clearly requires otherwise, the following terms shall have the following meanings.

1. **Agreement** means a legally binding written document between two or more parties, including, but not limited to, a document commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid.
2. **Agreement amendment** is a legally binding change or modification of the existing agreement.
3. **Agreement funds** means all agreement funds received by the community agency from the Department that require a periodic financial or service claim to the Department for settlement purposes. It includes State and Federal pass-through funds.
4. **Agreement expenditures** means the amount of agreement funds earned based on financial and service claims submitted to the Department.
5. **Budget** is an estimate of expenditures of a program during a given time period and the means by which the expenditures will be financed.
6. **Budget revision** is an approved change or modification to the existing budget.
7. **Client fees (private)** are fees self-paid by clients or covered by third party insurance.
8. **Client fees (program)** are fees from agreement or MaineCare subsidized clients.
9. **Commissioner** means the Commissioner of the Maine Department of Health and Human Services, who has responsibility for the administration of this chapter.
10. **Commitment** means the amount of funding the community agency has pledged to the program.
11. **Community agency (or Agency)** means any public or private nonprofit organization, firm, individual, partnership or business corporation operated for profit, which:
 - (a) Operates a social service program at the community level; and
 - (b) Receives public funds, either directly or indirectly, from one or more state departments or agencies; and
 - (c) Is not an administrative unit of the Federal government or State government.
 - (d) Is not exclusively a general or psychiatric hospital within the meaning of Maine Administrative Procedures Act 10-144, Chapter 112.

12. **Continuation agreements** are agreements with an end date that does not coincide with Agency's fiscal year.
13. **Cost sharing or matching** means that portion of project or program costs not borne by the Federal and/or State government.
14. **Cost sharing settlement** is a cost sharing agreement where multiple funding sources share in the expense of a funded service.
15. **Department** means the Maine Department of Health and Human Services, as well as other Departments and agencies of State government approved for inclusion in this chapter by the Commissioner. As of July 1, 1996 the Maine Department of Transportation was approved for inclusion in this chapter by the Commissioner.
16. **Department examination** means actions determined to be necessary by the Department's Division of Audit, including, but not limited to, analyses and/or testing of reported agreement balances and transactions, provisions of internal control systems and compliance with rules. Examinations conducted by the Department may be of a limited scope and are not considered an audit under generally accepted auditing standards or generally accepted government auditing standards.
17. **Department review** means a review by the Department's Division of Audit of the community agency's submitted annual financial statements. A review may include desk and/or quality control reviews or such other reviews as the Department may establish by rule. Reviews are done for the purpose of accepting or rejecting the audit submission for Federal and State Department purposes or for the purpose of financially closing out the agreement(s) for the Department.
18. **Division of Audit** is the responsible audit group in the Maine Department of Health and Human Services and the Maine Department of Transportation.
19. **Federal funds** means all federal funds received by the community agency as defined by OMB Circular A-133 and MAAP and not just those agreements received from the Department. It includes Federal direct, indirect and pass-through funds from all sources.
20. **Federal pass-through funds** means those funds received by a community agency from the Department and identified in the agreement as federal funds.
21. **Financial/service claims** are periodic reports from a community agency that provide the financial and/or service activity of a "social service" agreement over a period of time.
22. **Generally Accepted Accounting Principles (GAAP)** are uniform minimum standards and guidelines for financial accounting and reporting ordinarily employed by skilled accountants and agreed upon by authoritative practitioners of recognized professional standing, such as the Financial Accounting Standards Board (FASB), Governmental Accounting Standards Board (GASB) and other recognized professional bodies.
23. **Generally Accepted Auditing Standards (GAAS)** are auditing standards promulgated by the American Institute of Certified Public Accountants.

24. **Government Auditing Standards** are auditing standards promulgated by the Comptroller General of the United States.
25. **Independent Public Accountant (IPA)** means a person who complies with generally accepted government auditing standards and who is one of the following:
 - (a) A licensed certified public accountant or person working for a licensed certified public accounting firm; or
 - (b) A public accountant licensed on or before December 31, 1970, or a person working for a public accounting firm licensed on or before December 31, 1970.
26. **Indirect expenses** are costs that have been incurred for common or joint objectives that cannot be readily identified with a particular final cost objective.
27. **Known questioned costs** means a cost that is questioned by the auditor because of an audit finding:
 - (a) Which resulted from a violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Agreement funds, including funds used to match Agreement funds.
 - (b) Where the costs, at the time of the audit, are not supported by adequate documentation; or
 - (c) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.
28. **Likely questioned costs** are the IPA's estimate of the total costs questioned as a result of the specifically identified questioned costs.
29. **Major agreement** is an agreement or combination of agreements (continuation agreements) which purchase the same service with expenditures equal to or exceeding \$100,000 during the fiscal year of the agency.
30. **Nonparticipating department** is a department or division of State government other than one defined as a Department in this section that has not been approved for inclusion in this chapter by the Commissioner.
31. **Nonprofit organization** means any agency, institution or organization that consists of or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.
32. **Program** is an activity or set of activities intended to help achieve a particular outcome for the public.
33. **Program income** means gross income earned by the community agency that is directly generated by a supported activity or earned as a result of the award. Program income includes, but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Department-funded projects, the sale of commodities or items fabricated under an agreement, license fees and royalties on patents and copyrights and interest on loans made with agreement funds. MaineCare revenue, whether fee for service, unit based or cost settled, is program income.

34. **Public** means a municipal, county or other governmental body that is a political subdivision within the state.
35. **Restricted revenue** is income from organizations or individuals that require the funds to be used for a specific purpose or program by the donor.
36. **Risk pool** means utilizing and assessing risk factors for determining the need for an examination of an agreement. Such risk factors may include the value of the agreement and prior and current community agency historical profile.
37. **Service area** means the name of the program or the type of service being funded through a Department agreement.
38. **Single audit** means an audit made pursuant to Federal OMB Circular A-133 or any subsequent revisions to that circular. The single audit must be conducted by a qualified independent public accountant.
39. **Social service** means any social services program funded in whole or in part through an agreement issued by the Department. MaineCare funding, whether cost-based or fee for service, is excluded unless MaineCare specifically is identified as a social service program in an agreement award. (Note 1)
40. **State funds** mean those State funds received by a community agency directly from a State department, bureau, office or agency that do not represent Federal pass-through funds.
41. **Sub-contract** means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient.
42. **Subrecipient** means the legal entity to which a sub-contract is made and which is accountable to the recipient for the use of the funds provided. Guidance for distinguishing between a subrecipient and a vendor is provided in Federal Circular OMB A-133, § __.210.
43. **Tier 1 agency** is a community agency with less than \$500,000 in total annual agreement expenditures of agreement funding from the Department.
44. **Tier 2 agency** is a community agency with \$500,000 or more in total annual agreement expenditures of agreement funding from the Department.
45. **Unrestricted revenue** is revenue from funding sources to a community agency that is not restricted for a specific purpose or program by the donor.
46. **Vendor** means a dealer, distributor, merchant, or other sellers providing goods or services that are required for the conduct of a State or Federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the State or Federal program. Guidance for distinguishing between a subrecipient and a vendor is provided in Federal Circular OMB A-133, § __.210.

Note 1 - "Social services" includes, but is not limited to social, correctional, legal, health, medical, mental health, developmental disability, rehabilitation, substance abuse, transportation services, programs for children, juveniles, teens and adults, families and the elderly.

SECTION .02

ACCOUNTING AND FINANCIAL MANAGEMENT STANDARDS
FOR COMMUNITY AGENCIES

SUMMARY: To outline minimum standards for the presentation of financial statements and the Schedule of Expenditures of Department Agreements (SEDA), dollar thresholds for presentation of financial statements and the SEDA, record retention standards, internal control standards and timetables for reporting.

A. STANDARDS FOR PRESENTATION OF FINANCIAL STATEMENTS

Responsibility for financial statements - Community agencies will be required to submit audited entity-wide financial statements and compliance audit to each funding Department if annual agreement expenditures equal or exceed \$500,000. Community agencies with annual agreement expenditures of at least \$100,000 but less than \$500,000 will be required to submit entity-wide financial statements and the supplemental SEDA that have been reviewed by a qualified IPA. Agreement expenditures are the amount of agreement funds earned on the financial claims submitted to the Department.

1. Federal Standards

If the community agency is required to have a single audit of financial statements in accordance with OMB Circular A-133, that audit should be conducted and reported in accordance with those standards and should include all Federal awards which pass through the Department. That audit will satisfy the entity-wide financial audit requirement of these rules.

If the community agency can satisfy its federal audit requirement through a program-specific audit as specified in OMB Circular A-133, §__.235 and its Federal funds are the only amounts awarded within its State agreements, that audit will satisfy the audit requirement of these rules.

2. Department Standards

(a) TIER 1- Less than \$100,000

If a community agency has less than \$100,000 in total annual agreement expenditures of agreement funding from the Department, no entity-wide financial statements are required.

(b) Tier 1 - Between \$100,000 and \$500,000

Community agencies with total annual agreement expenditures of \$100,000, but less than \$500,000, must have an entity-wide review of its financial statements and supplemental SEDA conducted by a qualified IPA.

Tier 1 option - A community agency within Tier 1 may opt to follow the rules for audits and reporting under Tier 2.

(c) **TIER 2 - Audited Financial Statements**

If a community agency has \$500,000 or greater in total annual agreement expenditures of agreement funding from the Department, it must at a minimum have an entity-wide audit of its financial statements and a compliance audit of the supplemental SEDA conducted by a qualified IPA in accordance with Section .03 of these rules.

B. **STANDARDS FOR FINANCIAL STATEMENTS (Tier 2 and Tier 1 with Department Expenditures of \$100,000 or more)**

1. **Responsibilities for financial statements:** The financial statements are the representation of the community agency. It is the responsibility of the governing body of the community agency to ensure the statements are completed in accordance with these standards.
2. **Submission of financial statements:** The community agency must submit its financial statements and IPA's reports to the Department in accordance with these rules.
3. **Presentation of financial statements:** Financial statements must be prepared annually. The basic financial statements shall consist of those statements and disclosures required by Generally Accepted Accounting Principles for the community agency.

- (a) For Tier 2 agencies, the financial statements of a community agency must be audited on an entity-wide basis in accordance with Generally Accepted Auditing Standards and *Government Auditing Standards*.

The audited financial statements must be accompanied by the audited SEDA.

- (b) For Tier 1 agencies with annual agreement expenditures of at least \$100,000 but less than \$500,000, the financial statements of a community agency must be reviewed in accordance with Statement on Standards and Review Services (SSARS) No. 19, *Compilation and Review Services*.

The reviewed financial statements must be accompanied by the reviewed SEDA.

C. **STANDARDS FOR SCHEDULE OF EXPENDITURES OF DEPARTMENT AGREEMENTS (SEDA)**

1. **Purpose --** The SEDA provides the Department with information identifying agreement expenditures based on the Agreement Close-out Report(s) (ACR) and interim quarterly reports submitted to the Department during the current fiscal year. When an agency has a fiscal year end that does not match up to the interim quarterly report period, the agency will obtain the necessary interim financial information from its accounting records.

- (a) **MAAP Tier 1:**

A community agency that annually expends at least \$50,000 but less than \$100,000 of agreement funds must prepare the SEDA and submit to the Division of Audit in accordance with these rules.

A community agency that annually expends at least \$100,000, but less than \$500,000 of agreement funds must prepare the SEDA. The Agency's IPA must review the SEDA and issue a report. This SEDA and IPA report must accompany the annual reviewed financial statements submitted to the Department.

(b) MAAP Tier 2:

The community agency must prepare the SEDA. The Agency's IPA must issue an audit report on the SEDA. This SEDA and IPA report must accompany the annual audited financial statements submitted to the Division of Audit.

2. Required format

- (a) Each agreement with expenditures during the current year must be identified by State department, division or office, agreement number, agreement amount, agreement term, service area, agreement status, and related Federal and State expenses.
- (b) The method of settlement referenced in the Agreement Compliance Section of the agreement will determine the basis of settlement. For example, fee-for-service would be based on the units delivered times the applicable rate.
- (c) The expenditures for each agreement are based on claims submitted to the Department for the current fiscal year. The SEDA must include both interim and final agreements, if applicable.
- (d) The expenditures on the SEDA must represent only the Department portion of the claimed expenses.
- (e) If financial claims submitted to the Department cross two or more fiscal years, the community agency should review the make-up of the claims to determine what portion of the claimed expenses belongs to the current year. For cost sharing agreements that are in interim status, the community agency must determine the Department expenditures based on the agreement pro forma adjustments and the actual Department cost sharing percentage.
- (f) The SEDA must contain notes that, at a minimum, identify agreements tested and the percentage of agreements tested.

3. SEDA supporting documentation - Financial records and/or worksheets must be available to support financial claims submitted to the Department. The financial claims that are the basis for the SEDA must be maintained to support SEDA amounts. All financial records and financial claims that support SEDA amounts must be supplied upon request to the Division of Audit.

D. STANDARDS FOR RETENTION OF FINANCIAL AND ADMINISTRATIVE RECORDS

1. Financial records for agreements and supporting documentation under these rules must be retained for a period of three (3) years from the date of submission of the final expenditure report with the following exceptions:

- (a) If any litigation, claim, audit, examination or appeal is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.
- (b) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

E. INTERNAL CONTROL STANDARDS

Community agencies shall establish and maintain internal controls to achieve the organization's goals and objectives. Internal controls shall be designed to provide reasonable assurance about the achievement of the community agency's objectives with regard to the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable rules and regulations. Internal control standards shall consist of the following five interrelated components.

1. **Control environment:** The control environment sets the tone of an organization, influencing the control consciousness of its people. It is the foundation for all other components of internal control, providing discipline and structure. Control environment factors include the integrity, ethical values, management's operating style, delegation of authority systems, as well as the processes for managing and developing people in the organization.
2. **Risk Assessment:** Risk assessment is the community agency's identification and analysis of relevant risks to achievement of its objectives, forming a basis for determining how the risks should be managed. A precondition for risk assessment is establishment of objectives, and thus risk assessment is the identification and analysis of relevant risks to achievement of assigned objectives. Risk assessment is a prerequisite for determining how the risks should be managed.
3. **Control activities:** Control activities are the policies and procedures that help ensure management directives are carried out. They help ensure that necessary actions are taken to address risks to achievement of the community agency's objectives. Control activities occur throughout the organization, at all levels and in all functions. They include a range of activities as diverse as approvals, authorizations, verifications, reconciliations, reviews of operating performance, security of assets and segregation of duties.
4. **Information and communication:** Information and communication systems support the identification, capture, and exchange of information in a form and time frame that enable people to carry out their responsibilities. Information and communication systems play a key role in internal control systems as they produce reports, including operational, financial and compliance-related information that make it possible to run and control the community agency.
5. **Monitoring:** Monitoring is a process that assesses the quality of internal control performance over time. This is accomplished through ongoing monitoring activities or separate evaluations. Internal control deficiencies detected through these monitoring activities should be reported upstream, and corrective actions should be taken to ensure continuous improvement of the system.

F. REPORTING TIMETABLES

Community agencies will submit reports and the SEDA as follows:

1. Tier 1 agencies with total annual agreement expenditures of at least \$50,000, but less than \$100,000, must submit the SEDA no later than four (4) months after their fiscal year end. The SEDA must be signed and dated by an appropriate manager or administrator certifying to its accuracy.
2. Tier 1 agencies with total annual agreement expenditures of at least \$100,000, but less than \$500,000, must submit the reviewed entity-wide financial statements and the reviewed supplemental SEDA no later than six months after the fiscal year end of the community agency.
3. Tier 2 agencies must submit the audited entity-wide financial statements and the audited SEDA no later than nine months after the fiscal year end of the community agency.
4. Tier 1 and Tier 2 agencies that fall under the audit requirements of OMB Circular A-133 must submit the entity-wide financial statements, the SEDA and the Federal OMB Circular A-133 reporting package no later than nine (9) months after the fiscal year end of the community agency.
5. Cost allocation plans due to the Maine Department of Transportation are due no later than four (4) months after the fiscal year end of the Tier 1 community agency, and nine (9) months after the fiscal year end of the Tier 2 community agency.
6. Electronic submission is recommended and should be sent to dhhs.audit@maine.gov for submission to the Maine Department of Health and Human Services. Electronic submissions to the Maine Department of Transportation should be sent to OfficeofAudit.MaineDOT@maine.gov. State personnel who require a copy of the MAAP report for a community agency should contact the Division of Audit for the Maine DHHS or the Office of Audit for the Maine DOT.
7. The Department may grant an extension of report submission for good cause.

G. SANCTIONS

1. Failure to follow the reporting timetables in accordance with this part, may result in Department sanctions such as:
 - (a) Withholding a percentage of Department awards until the audit is completed satisfactorily.
 - (b) Withholding or disallowing indirect costs;
 - (c) Suspending Department agreements until the audit is conducted; or
 - (d) Terminating the Department award.

SECTION .03

AUDIT REQUIREMENTS

SUMMARY: This section presents requirements to community agencies and IPAs for audits of community agencies under these rules and to Department audit personnel for Department examinations of community agency agreements.

A. AUDIT RESPONSIBILITIES OF COMMUNITY AGENCIES

Community agencies and IPAs must understand the requirements of both Federal and Department audit requirements and they are as follows:

1. Federal Audit Requirement

Community agencies are responsible for obtaining audits that satisfy Federal audit requirements in accordance with OMB Circular A-133. All Federal audits for community agencies will be performed by a qualified IPA. Department auditors will be responsible for providing the necessary oversight of these audits to assure adequate coverage of pass-through Federal awards to community agencies.

If the community agency can satisfy its Federal audit requirement through a program-specific audit as specified in OMB Circular A-133, § __.235, and its Federal funds are the only agreement amounts awarded by the Department, that audit will satisfy the audit requirement of these rules.

2. Department Audit Requirement

All community agencies within Tier 2 (or within Tier 1 but opting for a Tier 2 audit) are required to have a qualified IPA conduct an audit in accordance with these rules. The Department will be responsible for providing the oversight of the community agency report submission.

- (a) Financial statements: The IPA shall determine whether the financial statements of the community agency are presented fairly in all material respects in conformity with Generally Accepted Accounting Principles. The IPA shall also determine whether the SEDA is presented fairly in all material respects in relation to the community agency's financial statements taken as a whole.
- (b) All audits shall be conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* (the Yellow Book) issued by the Comptroller General of the United States.
- (c) In addition to the requirements of the Yellow Book, the IPA shall perform procedures to obtain an understanding of internal controls over Department programs sufficient to plan the audit to support a low assessed level of control risk for all programs tested.
- (d) Except as provided in paragraph 2(e) of this section, the IPA shall plan and perform testing of internal controls over programs tested to support a low

assessed level of control risk for the assertions relevant to the compliance requirements for each program tested.

- (e) When the internal control over some or all the compliance requirements for a program is likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in 2(d) of this section are not required for those compliance requirements. However, the IPA shall report a significant deficiency (including whether any such condition is a material weakness), assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.
 - (f) In addition to the requirements of the Yellow Book, the IPA shall determine whether the community agency has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on any of its programs.
 - (g) The compliance testing shall include tests of transactions and such other auditing procedures necessary to provide the IPA sufficient evidence to support an opinion on compliance.
3. Upon request, the IPA shall send to the Department copies of audit working papers, reports, letters and correspondence. The IPA shall also cooperate with the Department in the conduct of quality control reviews of an audit made under these rules.

B. DEPARTMENT AUDIT REPORTING STANDARDS

The IPA will issue the following reports as a result of audits of community agencies in accordance with these rules.

The IPA's reports may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The IPA's report shall state that the audit was conducted in accordance with this part and include the following:

1. **Independent Auditors' Report on the entity-wide financial statements of the community agency for the fiscal year.** The audit should be conducted in accordance with *Generally Accepted Auditing Standards* and *Government Auditing Standards*. The report should also include an opinion (or disclaimer of opinion) as to whether the Schedule of Expenditures of Department Agreements is presented fairly in all material respects in relation to the financial statements taken as a whole.
2. **Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements in Accordance with *Government Auditing Standards*.** This report is required for all audits performed in accordance with *Government Auditing Standards*.
3. **Report on Compliance with Requirements That Could Have a Direct and Material Effect on Each Major Program and on Internal Control Over Compliance in Accordance with Maine Uniform Accounting and Auditing Practices for Community Agencies.** This report is modeled after the report required by Federal Circular OMB A-133.

4. Schedule of Findings and Questioned Costs shall include the following four components:

- (a) A summary of the IPA's results which shall include:
 - (i) The type of report the IPA issued on the financial statements of the community agency (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).
 - (ii) Where applicable, a statement that significant deficiencies in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses.
 - (iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the community agency.
 - (iv) Where applicable, a statement that significant deficiencies in internal control over programs tested were disclosed by the audit and whether any such conditions were material weaknesses.
 - (v) The type of report the IPA issued on compliance for programs tested (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).
 - (vi) An identification of all programs tested.
- (b) Findings relating to the financial statements, which are required to be reported in accordance with *Government Auditing Standards*.
- (c) Findings and questioned costs for Department agreements which shall be presented in sufficient detail for the community agency to prepare a corrective action plan and take corrective action to allow the Department to issue a management decision regarding the corrective action. Findings shall include the following detail:
 - (i) **Name:** Department program name as identified on the contract and agreement number.
 - (ii) **Criteria:** The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.
 - (iii) **Condition:** The condition found, including facts that support the deficiency identified in the audit finding.
 - (iv) **Known Questioned Costs:** Identification of all questioned costs equal to or exceeding \$1,000 and how they were computed.
 - (v) **Likely Questioned Costs:** Identification of all likely questioned costs equal to or exceeding \$1,000 and how they were computed.
 - (vi) **Context:** Information to provide proper perspective for judging the prevalence and consequences of the audit finding, such as whether the

audit finding represents an isolated instance or a systematic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined and be quantified in terms of dollar value.

- (vii) **Cause:** A brief explanation of what caused the finding should be detailed.
 - (viii) **Effect:** The possible asserted effect, to provide sufficient information to the community agency and the Department to permit them to determine the cause and effect to facilitate prompt and proper corrective action.
 - (ix) **Recommendation:** Recommendations to prevent future occurrences of the deficiency identified in the audit findings.
 - (x) **Management response/corrective action:** Views of responsible officials of the community agency detailing corrective action taken or planned by the community agency. Elements should include corrective action taken or planned, estimated dates the corrective action was taken or planned, and the official responsible for the corrective action.
- (d) Prior year items - The IPA will include a presentation of the status of findings and questioned costs from prior year. If there were no findings in the prior year, the schedule must state there were none.

C. AUDIT COMPLIANCE TESTING STANDARDS

This standard applies to IPAs in the performance of audits of community agencies in Tier 2 and those in Tier 1 opting for audits under this rule.

1. Testing of Agreements and 50% Rule

- (a) All agreements selected for testing must be tested for compliance and internal control over compliance.
- (b) The determination of which agreements to test must be based on the expenses identified in the SEDDA. The IPA, at a minimum, must perform compliance testing on agreements that make up 50% of the total expenditures claimed. If the auditee meets the criteria in Section .03 C. 2. for low-risk auditee, the auditor need only audit as major programs Department programs with awards expended that, in the aggregate, encompass at least 25% of total Department awards expended. The IPA shall use a risk-based approach to determine which Department agreements should be selected for testing. This risk-based approach shall include consideration of current and prior audit experience, oversight by Federal and State agencies, and the inherent risk to the Department agreements.
- (c) All major agreements must be tested at least once every three years. If the inclusion of these agreements significantly raises the percentage tested, the IPA and the Division of Audit can agree, in writing, on a plan of action.
- (d) For Department agreements that do not reconcile to the agency's fiscal year end (stub agreement) where there is a preceding or subsequent agreement that purchases

the same service(s) (continuation agreement), the expenditures for these agreements must be combined and considered in the major agreement determination.

2. Criteria for Low-Risk Auditee

An auditee which meets all of the following conditions shall qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with Section .03 C. 1.(b).

- (a) MAAP audits were performed on an annual basis in accordance with the provisions of this part and submitted by the due date to the Division of Audit for the last two years.
- (b) The auditor's opinions on the financial statements and the SEDA were unqualified for the last two audits. However, the Division of Audit may judge that an opinion qualification does not affect the management of Department awards and provide a waiver.
- (c) There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS for the last two audits. However, the Division of Audit may judge any indentified material weaknesses that do not affect the management of Department awards and provide a waiver.
- (d) None of the Department programs had audit findings from any of the following in either of the preceding two years in which they were classified as a major program:
 - (1) Internal control deficiencies which were identified as material weaknesses
 - (2) Noncompliance with the provisions of laws, regulations, contracts, or grant agreements which have a material effect on the major program; or
 - (3) Known or likely questioned costs that exceed five percent of the total Department awards expended.
- (e) The agency had no findings for the last two examination reports issued by the DHHS Division of Audit or the DOT Office of Audit. However, the Division of Audit may judge any finding issued as not significant and provide a waiver.

3. Materiality -- Materiality for compliance testing is based at the agreement budget level.

For cost settled agreements, total expenses in the categories of personnel and all other should not exceed the budgeted amount for that category by 10% or \$10,000, whichever is greater.

For cost settled agreements, total expenses in the category of equipment should not exceed the budgeted amount by 10% or \$1,000, whichever is greater.

For cost settled agreements, total expenses per subcontract should not exceed the budgeted amount by 10% or \$1,000, whichever is greater.

4. **Compliance Criteria** - The compliance criteria to be tested are those specified in the agreement compliance section and Section .04 of these rules.
5. **IPA's Reports** - The IPA's report on compliance must encompass each agreement tested in accordance with the standards of Section .03 C.
6. **IPA's Workpapers** - The IPA must, at a minimum, maintain workpapers that are available upon request by the Division of Audit that document testing of the community agency's administrative controls and compliance requirements in the following areas:
 - (a) The community agency has knowledge of Federal and Department regulations and has procedures in place to safeguard Department funds (administrative controls).
 - (b) Costs are in accordance with the applicable Federal circulars, MAAP regulations, and any exceptions identified in the agreement award.
 - (c) The allocation of costs either directly or indirectly is equitable (if cost settled).
 - (d) The final costs claimed by the community agency are within the thresholds related to budget revisions (if cost settled).
 - (e) The community agency has a system in place to monitor agreement advances and ensure interest from advances is reimbursed to the Department in accordance with applicable federal circulars.
 - (f) All obligations due the Department are liquidated within 90 days after the termination of an agreement.
 - (g) Costs are for the services identified in the agreement program (if cost settled).
 - (h) Services are only provided to eligible clients (if applicable).
 - (i) Match commitment meets the requirement of the federal circulars and the agreement award (if applicable).
 - (j) Reports are submitted to the Department timely.
 - (k) Subrecipient agreements are properly monitored (if applicable).
 - (l) The community agency has adhered to any special conditions identified in the agreement.

D. DEPARTMENT EXAMINATIONS

The Department may require or perform Department examinations of community agencies under the following circumstances:

1. As a result of the risk pool process.
2. At the request of the community agency.

3. At the request of a State department as a result of an audit report or findings which indicate material weaknesses in internal controls, lack of compliance with agreement conditions, or other matters which indicate lack of controls over agreement funds or assets.
4. As a result of desk reviews or quality control reviews of audit reports that indicate substantial inadequacies exist with the audit. However, inadequacies in entity-wide audits are expected to be resolved by the community agency in conjunction with its IPA.
5. As a result of State recognition of potential irregularities or illegal acts.
6. At the request of a department for a limited-purpose review not covered in the scope of a financial and compliance audit.

Field visits shall be coordinated for community agencies funded by both DHHS and DOT.

SECTION .04

STANDARD ADMINISTRATIVE REQUIREMENTS AND COMPLIANCE FOR
DEPARTMENT AGREEMENTS

SUMMARY: This section establishes the adoption of OMB Circulars and other Federal and Department guidance applicable to the agreements between Community Agencies and the Department. Compliance and administrative requirements are outlined, including the appeals procedure for the appeals and resolution of financial issues arising from audits and Department examinations.

A. ADOPTION OF FEDERAL OMB CIRCULARS AND COMMON RULE

Administrative requirements and cost principles applicable to Federal funds are adopted as being applicable to Department funded agreements.

1. Applicability

The Department will apply the following federal administrative requirements and cost principles to the following entities:

(a) Nonprofit Entity

- (i) Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations".
- (ii) Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations".

(b) Educational Entity

- (i) Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations".
- (ii) Office of Management and Budget (OMB) Circular A-21, "Cost Principles for Educational Institutions".

(c) Public Entity

- (i) Office of Management and Budget (OMB) Circular A-102 (Common Rule), "Grants and Cooperative Agreements with State and Local Governments".
- (ii) Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State and Local Governments".

(d) For-Profit Entity

- (i) Office of Management and Budget (OMB) Circular A-102 (Common Rule), "Grants and Cooperative Agreements with State and Local Governments".

- (ii) Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State and Local Governments"

B. COMPLIANCE REQUIREMENTS

Community agencies receiving agreement funding shall follow the more restrictive of the applicable program regulations, Federal circulars, MAAP, and the agreement award.

1. Agreement Compliance

- (a) In addition to the administrative requirements and cost principles, the Department has identified in the "Agreement Compliance Section" of the agreement award specific compliance categories that reference specific agreement conditions that could lead to material non-compliance:

- Bonding Requirement
- Budget Compliance
- Activities Allowed or Unallowed
- Allowable Costs/Cost Principles
- Cash Management
- Davis-Bacon Act
- Eligibility
- Equipment and Real Property Management
- Matching Level of Effort , Earmarking
- Period of Availability of Federal and State Funds
- Procurement and Suspension and Debarment
- Program Income
- Real Property Acquisition/Relocation Assistance
- Reporting
- Subrecipient Monitoring
- Special Tests And Provisions

These areas of compliance, as applicable, must be specifically referenced in each agreement with the community agency.

C. ADMINISTRATIVE REQUIREMENTS

1. Contractual Process

- (a) Community agencies enter into agreements with the Department to provide goods and/or services.
- (b) All agreements with the Department include the agreement number, the agreement terms, the scope of goods and/or services to be provided, compliance requirements, method of payment, agreement budget, method of settlement, pro forma settlement, the types of reports due to the Department and the due dates of any required reports.
- (c) All agreements are administered by a Department agreement administrator.
- (d) The Department agreement administrator is responsible for administering the agreement during the agreement period. This includes approval authority for all payments made to the community agency, approval authority to any budget or budget revisions submitted to the Department by the community agency, agreement settlements and liquidation of all outstanding balances due to or from the Department.
- (e) Review and approval of community agency submissions by the Department does not relieve the community agency from being audited according to MAAP and federal regulations in cases where this approval may be counter to MAAP and federal regulations.

2. Pro Forma

- (a) The agreement must include a pro forma that clearly identifies the steps necessary to reach an accurate settlement.
- (b) Community agencies entering into Department agreements must follow the cost sharing methodology described in the agreement and as reflected in the pro forma included in the agreement document except as detailed in (c) below.
- (c) Community agencies are required to follow applicable federal circulars, program regulations and MAAP restrictions, even if those restrictions are not expressly set forth in the pro forma. For example, bad debt will always be eliminated against expense as an unallowable expense, even if the pro forma did not show bad debt being eliminated. If during the settlement process the community agency notes that the pro forma did not accurately reflect the restrictions imposed by federal circulars, program regulations and MAAP restrictions, the final settlement to the Department must be based on the actual restrictions even though not consistent with the agreement pro forma.

3. Revisions of Budgets and Program Plans

The community agency shall request prior written approval for budget revisions whenever one or more of the following conditions occur:

- (a) The total expenses in personnel and all other category exceed the budgeted amount for that category by at least ten percent or \$10,000, whichever is greater,
- (b) The total expenses per subcontract vary from the budgeted amount by at least 10% or \$1,000, whichever is greater.
- (c) The total expenses in the equipment category exceed the budgeted amount by at least 10% or \$1,000, whichever is greater,
- (d) The total agency commitment differs from the budgeted amount,

The community agency must request a budget revision at least thirty (30) days prior to the agreement termination date. If revision approval is not granted in writing prior to the date of the required final report, all costs that exceed the budget thresholds shall be deemed questioned costs. In addition, any variance, if any, between the actual agency commitment and the budgeted amount shall be adjusted on the agreement settlement form prior to cost sharing.

4. Cost Sharing Settlements

The Department enters into agreements where the Department participates in programs with multiple funding sources. Below are Department cost sharing principles to be followed in the budgeting and settlement process:

- (a) Unrestricted revenues shall be specifically identified as such in the agreement budget. These amounts are comprised of revenues such as private client fees and the community agency's commitment to the program. The agency's stated commitment to the program shall be included in the final settlement whether or not the community agency transferred these funds to the program. All unrestricted revenues are to be cost shared in the final settlement with the Department.
- (b) Restricted revenue must be eliminated against program expenses dollar for dollar prior to cost sharing.
- (c) Revenue from other federal and state funding sources that are not considered agreement revenue must be eliminated against program expense dollar for dollar prior to cost sharing.
- (d) Program income such as client fees (program) must be eliminated against program expenses dollar for dollar prior to cost sharing. Client fees (private) must be made available for cost sharing, unless specifically restricted against identified expenses in the budgeting process.
- (e) All MaineCare revenue, whether fee for service, unit based or cost settled, must be eliminated dollar for dollar against expense prior to cost sharing.
- (f) An agency must eliminate all in-kind revenue and expenses prior to cost sharing. In-kind revenue and expenses are third party non-cash transactions that add benefits to a program.

- (g) An agency must eliminate all subcontract revenues and related expenses prior to cost sharing.
- (h) If an agreement award has multiple pro formas, a final settlement must be prepared consistent to the pro formas.
- (i) The final financial report (agreement closeout report) must include the total Department agreement amount less any subcontract amount as available revenue for settlement purposes.

5. Liquidation of Outstanding Balances

Community agencies must liquidate any outstanding balance due the Department within ninety days after termination of an agreement (Note: The agreement can be more restrictive and require payment prior to the ninety days). If reimbursement is not made timely, the Department may charge interest based on the U.S. Treasury, Cash Management Improvement Act (CMIA).

6. Examination Process

- (a) The Division of Audit may elect to perform a Department examination of Tier 1 community agencies' ACR(s) as submitted to the Department.
- (b) The Division of Audit will perform a desk review for Tier 1 A-133 and Tier 2 community agencies to determine compliance with the agreement, MAAP, and Federal Circular A-133 requirements, if applicable.
- (c) The Division of Audit shall prepare an examination report of community agencies selected for Department examination. The results will be communicated to the community agency and the Department.
- (d) Upon receipt of the Department examination report, the community agency has sixty (60) days to either accept or appeal. Acceptance shall include a corrective action plan responsive to all recommendations and full payment of any balances due. Failure to comply within the allotted time may result in sanctions being applied by the Department as described in Section .02 G.
- (e) Periodically, the Division of Audit may elect to perform a quality control review of IPA's workpapers

D. DEPARTMENT APPEALS, RESOLUTIONS AND SANCTIONS

1. Appeals Procedures

Step a - Director of Audit – Maine DHHS and Maine DOT

A community agency may appeal, in writing, the findings of a Department examination by submitting a letter of appeal in writing within sixty (60) days after receiving the report from the Department. The appeal letter must identify the issues being appealed and include the specific supporting documentation. It

must be addressed to the Director of the Division of Audit at the Maine DHHS or to the Director of the Office of Audit at the Maine DOT.

The Director or the Director's designee will initiate a review of the audit appeal and will, as needed, consult with program management responsible for the affected agreements, agreement administrators, and other applicable and appropriate staff.

The Director or the Director's designee will issue a written decision on the appeal and the full basis of the decision to the community agency no later than sixty (60) days following the receipt of the appeal letter, unless both parties agree to an extension. The letter may be co-signed by other DHHS staff as applicable.

Step b - Agency appeal of Director of Division/Office of Audit Decision

1. Maine DHHS

If the community agency wishes to proceed further in its appeal, it may appeal to the DHHS Office of Administrative Hearings by submitting a notice of appeal in writing within sixty (60) days of receiving the decision from the Director of the Division of Audit. The issue(s) on appeal will be limited to what was raised at the Step a appeal. The hearing will be an Order of Reference appeal hearing. The hearing officer will issue a recommended decision to the Commissioner, who will issue a final decision.

2. Maine DOT

If the community agency wishes to proceed in its appeal, it may appeal to the Commissioner of Maine DOT within sixty (60) days of receiving the decision from the Director of the Office of Audit. The issue(s) on appeal will be limited to what was raised at the Step a appeal. The DOT Commissioner will issue the final decision.

Step c - Judicial appeal – Maine DHHS and Maine DOT

The community agency may appeal the DHHS or DOT Commissioner final decision by filing an appeal with the Maine Superior Court pursuant to the Maine Rules of Civil Procedure, Rule 80C and 5 M.R.S.A. §11001, et seq.

2. Resolution of Appeals

When the community agency chooses not to further pursue its appeal, or the appeal process has been exhausted, or the Department and community agency reach agreement, a letter will be sent by the Department confirming the terms of the settlement or clarifying the terms of the Commissioner's final decision.

The community agency must within thirty (30) days of receipt of the letter, as applicable;

- (a) Make full payment of any balance due;

- (b) If full payment cannot be made for good cause, the agency will make arrangement for a repayment plan acceptable to the Department.
- (c) The agency will also submit a corrective action plan acceptable to the Department regarding any findings noted in the examination report.

3. **Sanctions**

- (a) Failure to comply with Section .04 D. 2. above, may result in sanctions being applied by the Department as described in Section .02 G.
- (b) The Department may refer the matter over to the Attorney General or to a collection agency.

SECTION .05

DEPARTMENT RESPONSIBILITIES

SUMMARY: The Department shall establish procedures for administering agreements with Community Agencies in accordance with MAAP and federal regulations. Specific Department responsibilities shall, at a minimum, include the following:

A. ADMINISTRATIVE RESPONSIBILITIES

1. To prepare requests for proposals for agreements with community agencies.
2. To negotiate agreements with community agencies that contain applicable accounting and administrative requirements contained within these rules.
3. To ensure each agreement between the Department and the community agency includes an Agreement Compliance Section and a pro forma.

(a) Agreement Compliance Section

Each agreement shall contain a standard section which presents the related agreement compliance testing requirements. Each area of compliance indicated as applicable shall be cross-referenced to the agreement.

(b) Pro Forma Agreement Closeout Report

Each agreement shall contain a pro forma to illustrate the close-out method to be applied. Illustrative amounts should be filled in on the pro forma.

(c) Special Provisions

An agreement may present in the Agreement Compliance Section an applicable special compliance area in addition to the standard areas. Special compliance areas must have a measurable effect to the agreement. Any special compliance area must be identified and cross-referenced to the agreement. In addition, a separate page must be inserted in the agreement which specifies the compliance requirements.

4. To provide technical advice to community agencies and IPAs to assist them in understanding their responsibilities under the agreement.
5. To monitor agreement fiscal and program performance.
6. To resolve agreement balances resulting from audits and examinations.
7. To apply sanctions as described in Section .02 G when necessary.

B. AUDIT OVERSIGHT AND EXAMINATION RESPONSIBILITIES

Division of Audit personnel of the Department are responsible for the following:

1. To perform Department examinations of community agency records.
2. Ensure that subrecipients expending \$500,000 or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of OMB Circular A-133.
3. To conduct desk reviews of audits of community agencies performed by IPAs.
4. To conduct quality control reviews of selected IPAs' audits.
5. To review the community agency's SEDDA.
6. To prepare examination reports for agreements administered by the Department.
7. To review agreement pro formas for conformity to achieve a fair and equitable settlement which complies with all applicable rules and regulations.
8. To assess risk for Department examinations associated with community agencies. At a minimum, such factors as frequency of audit, past history, level of agreement funding, etc. may be considered.
9. To provide the necessary training concerning the regulatory requirements of this Act.
10. To provide technical advice and act as a liaison between all interested parties.
11. To inform the community agency of any additional Departments approved for inclusion in this chapter by the Commissioner.
12. To respond to community agency non-compliance and corrective action plans.
13. To respond to community agency appeals in accordance with Section .04.
14. To advise Department management of community agencies materially not complying with the MAAP reporting requirements.

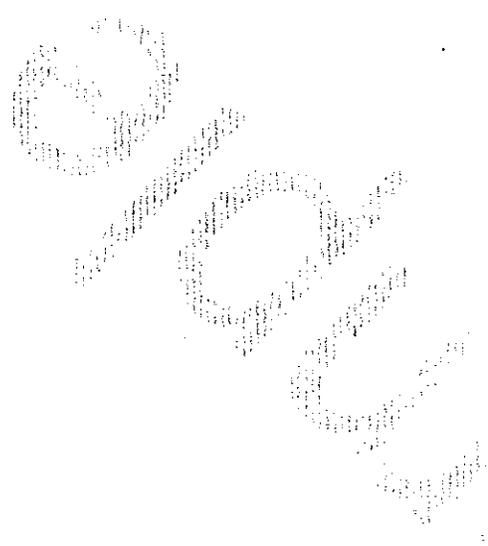
APPENDICES

Appendix A
ABC, Inc.

Schedule of Expenditures of Department Agreements
Fiscal Year Ended June 30, 2008

Department Office	Agreement Number	Agreement Amount	Agreement Period	Agreement Service	Agreement Status	Federal Expenses	State Expenses	Total Department Expenses	DOT Only Local Share Expenses	DOT Only Total Agreement/Match Expenses
DHHS:										
DPS	CFS-08-1050	340,000	10/01/07-9/30/08	Child Care-Slots	Interim	135,000	75,000	260,000		
DPS	CFS-07-1050	330,000	10/01/06-9/30/07	Child Care-Slots	Final	80,000	56,500	136,500		
DPS	CFS-08-1055	425,000	10/01/07-9/30/08	Child Care-Vouchers	Interim	220,000	112,000	332,000		
DPS	CFS-07-1055	416,000	10/01/06-9/30/07	Child Care-Vouchers	Final	55,000	26,000	81,000		
CFS	CFS-08-1075	N/A	10/01/07-9/30/08	Food	Interim	37,500		37,500		
CFS	CFS-07-1075	N/A	10/01/06-9/30/07	Food	Final	11,200		11,200		
DPS	CFS-08-1090	85,000	10/01/07-9/30/08	Transportation	Interim	17,000	45,000	62,000		
DPS	CFS-07-1090	85,000	10/01/06-9/30/07	Transportation	Final	6,000	16,000	22,000		
Maine CDC	CFS-08-1040	180,000	7/01/07-6/30/08	Teen Health	Final	81,685	81,685	163,370		
DPS	CFS-08-1045	90,000	7/01/07-6/30/08	Substances Abuse	Final	36,000	50,500	86,500		
DPS	CFS-08-1047	110,000	7/01/07-6/30/08	Counseling	Final	80,000	30,000	110,000		
DPS	CFS-08-1065	245,000	7/01/07-6/30/08	Transportation	Final		236,000	236,000		
DPS	CFS-07-1066	180,000	7/01/06-6/30/09	Counseling	Interim		55,000	55,000		
DHHS Indirect:										
Agency B	CSC 4405	50,000	7/01/07-6/30/08	Transportation	Final	25,000	25,000	50,000		
Agency C	CSC 4425	70,000	7/01/07-6/30/08	Transportation	Final	834,385	65,000	65,000		
Subtotal (DHHS)							\$73,685	1,708,070		
DOT:										
OPT	U067G505219	265,725	7/01/07-6/30/09	Admin/operating/Capital	Interim	20,857	2,771	23,628	10,994	34,622
	ME-18-X038-11744.00									
	ME-18-X058-11744.01									
OPT	U066G604307	254,938	7/01/06-6/30/08	Admin/operating/Capital	Final	215,648	21,878	237,526	59,424	296,950
	ME-18-X037-10740.00									
Subtotal (DOT)								261,154	70,418	331,572
TOTAL							898,634	1,969,224		

ABC, Inc.
Schedule of Expenditures of Department Agreements
Fiscal Year Ended June 30, 2008



NOTES:

Disclosures:
Is your Agency required to have a federal A-133 Audit? YES NO

Tier 1 Agencies (under \$100,000)
I certify to the best of my knowledge that the Schedule includes all MAAP agreements. Additionally, the schedule accurately reflects the financial service claims submitted to the Department during this fiscal year...

Signed _____ Title _____ Date _____

Appendix B

INSTRUCTION FOR COMPLETION OF SCHEDULE OF EXPENDITURES OF DEPARTMENT AGREEMENTS

The purpose of the SEDA is to summarize financial/service claims submitted by the agency to the Department and to determine if the agency qualifies as a MAAP Tier 1 or Tier 2. If Tier 2 the SEDA must identify which agreements and programs were tested for compliance.

GENERAL INSTRUCTIONS:

The SEDA will include the activity of both DHHS and DOT. If another State Department is included under MAAP, Community Agencies will be notified. The SEDA must include DHHS and DOT funding received indirectly from other entities.

The SEDA must isolate the activity of DHHS and DOT. Agreement activity subtotals must be included for each Department.

DHHS and DOT require the same information, except DOT requires "Local Share Expenses" and "Total Agreement Expenses".

INSTRUCTIONS:

Department/Office
Enter applicable Department and Office

Agreement Number
Enter agreement number. Additionally, DOT requires the PIN number be identified.

Agreement Amount
Enter agreement amount. If agency elects to identify agreement activity based on separate pro formas or settlement restrictions contained in the agreement, the agreement amount should only include the portion of the agreement amount restricted to that activity/settlement. However, the sum of the individual settlements must equal the agreement amount (see instructions for Total Federal/State Expenses). The preparer should use the Notes to the SEDA for clarification, if necessary.

Agreement Period
Enter the beginning and end dates of the agreement.

Agreement status
Enter all agreements (interim and final) with financial activity during the current period for both Departments.

Total Department Expenses
 The SEDA is a summary of financial claims submitted to the Department. Expenses included on the SEDA must reconcile to these claims.

If a claim to the Department does not reconcile to the agency's fiscal year end, and the current year expenses cannot be readily determined, the preparer can pro rate expenses between accounting periods. However, the expenses included in the SEDA over the life of the agreement must equal the total expenses claimed.

The Agency may elect to identify agreements with separate pro formas or settlement restrictions as one merged settlement or separate settlements under separate lines on the SEDA. The preparer should use the Notes to the SEDA for clarification, if necessary.

If separate settlements, the format should be similar to the following:

Office	Agreement Number	Agreement Amount	Agreement Period	Agreement Service	Agreement Status	Federal Expenses	State Payments	Agreement Expenses	Total
DPS	CFS-07-1050	250,000	10/01/06-9/30/07	Child Care-Slots	Final	41,000	20,500	61,500	
DPS	CFS-07-1050	9,900	10/01/06-9/30/07	CC-Eligibility	Final	4,000	5,900	9,900	
DPS	CFS-07-1050	10,100	10/01/06-9/30/07	Program Improve.	Final	0	10,100	10,100	
DPS	CFS-07-1050	40,000	10/01/06-9/30/07	Family Network	Final	20,000	20,000	40,000	
DPS	CFS-07-1050	20,000	10/01/06-9/30/07	Certification	Final	15,000	0	15,000	
		330,000				80,000	56,500	136,500	

Federal Expenses

Enter the amount of Total Department Expenses that was borne by Federal funds. The Agency must review the agreement award and Department payments to determine the make-up of the expenses between Federal and State funds. If the actual payments versus expenses claimed do not clearly identify the Federal amount, the allocation of Federal to State funds can be pro-rated.

State Expenses

Enter the amount of Total Department Expenses that was borne by State funds. The Agency must review the agreement award and Department payments to determine the make-up of the expenses between Federal and State funds. If the actual payments versus expenses claimed do not clearly identify the State amount, the allocation of Federal and State funds can be pro-rated.

Local Share Expenses

DOT only: identify the expenses associated with the local match

Total Agreement Expenses
DOT only; add "Total Department Expenses" and "Local Share match"

NOTES:

Tier 2 Agencies:
The SEDA or the Notes to the SEDA must specifically identify programs tested.

The Notes to the SEDA must identify the percentage of major agreements tested in relation to total Department expenses. The SEDA must identify the percentages applicable to DOT and DHHS.

DISCLOSURES:

The Agency must disclose if they are required to have a Federal Circular A-133 Audit. If required, the Federal Circular A-133 Reporting package must be forwarded to the DHHS and/or DOT Office of Audit based on the submission requirements of Circular A-133.

Tier 1 Agencies with expenditures under \$100,000:
The SEDA must be signed and dated by a responsible Official of the Agency. The Official must certify as to the accuracy of the SEDA.

Tier 1 Agencies with expenditures of \$100,000 but less than \$500,000:
The SEDA does not need to be signed. The SEDA will be included as part of the reviewed entity-wide financial statements. The IPA will issue a report on the SEDA.

Tier 2 Agencies:
The SEDA does not need to be signed. The SEDA will be included as part of MAAP Compliance Audit. The IPA will issue a report on the SEDA.

Appendix C

Illustrative Auditor's Report

Report on Compliance with Requirements That Could Have a Direct and Material Effect on Each Major Program and on Internal Control over Compliance in Accordance with Maine Uniform Accounting and Auditing Practices for Community Agencies.

(Unqualified Opinion on Compliance; No Material Weaknesses or Significant Deficiencies in Internal Control Over Compliance Identified)

Independent Auditor's Report

(Addressee)

Compliance

We have audited Sample Community Agency's compliance with the types of compliance requirements described in the *Maine Uniform Accounting and Auditing Practices for Community Agencies* (MAAP), and with the requirements in the Contract Compliance Rider(s) of the Agency's agreement(s) with the Maine Department of Health and Human Services and the Maine Department of Transportation (the Department) that could have a direct and material effect on each of Sample Community Agency's major Department agreements for the year ended June 30, 20XX. Sample Community Agency's major Department programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contract and grants applicable to each of its major Department programs is the responsibility of Sample Community agency's management. Our responsibility is to express an opinion on Sample Community Agency's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the MAAP. Those standards and the MAAP require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major Department agreement occurred. An audit includes examining, on a test basis, evidence about Sample Community Agency's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. Our audit does not provide a legal determination of Sample Community Agency's compliance with those requirements.

In our opinion, Sample Community Agency complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major Department agreements for the year ended June 30, 20XX. However, the results of our auditing procedures disclosed instances of noncompliance with those requirements, which are required to be reported in accordance with the MAAP and which are described in the accompanying schedule of findings and questioned costs as items *(list the reference numbers of the related findings, for example, 20X1-2 and 20X1-4; if there are no such instances, this sentence should be omitted)*.

Internal Control Over Compliance

Management of Sample Community Agency is responsible for establishing and maintaining effective internal controls over compliance with the requirements of laws, regulations, contracts, and grant applicable to Department agreements. In planning and performing our audit, we considered Sample Community Agency's internal control over compliance with the requirements that could have a direct and material effect on a major Department agreement to determine the auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with MAAP, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of Sample Community Agency's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a Department agreement on a timely basis. A material weakness in internal control over compliance is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a Department agreement will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal over compliance that we consider to be *material weaknesses*, as defined above.

Sample Community Agency's responses to the findings identified in our audit are described in the accompanying schedule of findings and questioned costs. We did not audit Sample Community Agency's responses and we express no opinion on the responses (*If there are no findings, this paragraph should be omitted*).

This report is intended solely for the information and use of management, (*identify the body or individuals charged with governance*), others within the entity, (*identify the legislative or regulatory body*), Department awarding agencies, and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

(Signature)

(Date)

Appendix D
AGENCY NAME
Schedule of Findings and Questioned Costs
DATE

Section I - Summary of Auditor's Results

Financial Statements

Type of auditor's report issued:	Unqualified
Internal control over financial reporting:	
Material weaknesses identified?	No
Significant deficiencies identified not considered to be material weaknesses?	Yes
Noncompliance material to financial statements noted?	No

State Agreements

Internal Control over programs tested:	
Material weaknesses identified?	No
Significant deficiencies identified not considered to be material weaknesses?	None reported
Type of auditor's report issued on compliance for programs tested	Unqualified
Any audit findings disclosed that are required to be reported in accordance with MAAP regulations?	Yes

Identification of programs tested:

Name of Program:

Appendix D
AGENCY NAME
Schedule of Findings and Questioned Costs
DATE

Section II - Findings Required to be Reported under *Government Auditing Standards*

Criteria -

Condition -

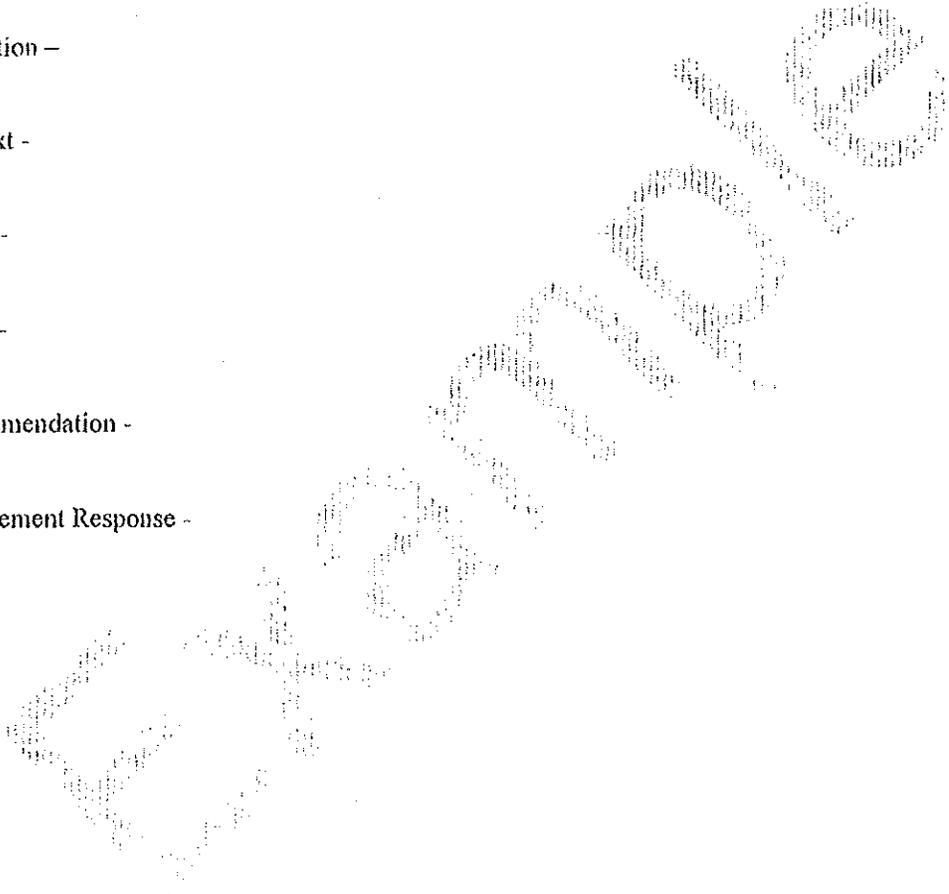
Context -

Cause -

Effect -

Recommendation -

Management Response -



Appendix D
AGENCY NAME
Schedule of Findings and Questioned Costs
DATE

Section III - Findings and Questioned Costs for State Agreements

Department Program Name and Agreement Number -

Criteria -

Condition -

Known Questioned Costs -

Likely Questioned Costs -

Context -

Cause -

Effect -

Recommendation -

Management Response/corrective action -

Appendix D
AGENCY NAME
Schedule of Findings and Questioned Costs
DATE

Section IV - Status of Prior Year Findings



APPENDIX E
AGREEMENT COMPLIANCE FORM

This section identifies compliance requirements that must be considered in audits of agreements between the Department and a Community Agency. Below is a summary of required compliance tests as well as sections within the agreement award relevant to such testing. Failure to comply with any of these areas could lead to material deficiencies.

 X Review the Federal compliance requirements specific to the following CFDA identifiers:

CFDA # 93.710 CFDA # CFDA #

OMB A-133 Compliance Supplement located at www.whitehouse.gov/omb/circulars

and review all the State compliance requirements listed below that apply to Federal Funds.

 X Review the State compliance requirements in applicable areas specified below:

- | | | | | | | | | | | | | |
|-------------------|---|---|--------------|--------------|-----------------|---------------------------|-----------|---------------------------|-------------------|---------------------------|------------------|---------------------------|
| <u> X </u> | 1.) INTERNAL CONTROL | | | | | | | | | | | |
| <u> X </u> | 2.) STANDARD ADMINISTRATIVE PRACTICES | | | | | | | | | | | |
| | A. OMB A-110/Common Rule | B. Department Additions | | | | | | | | | | |
| | General | | | | | | | | | | | |
| | Pre-award Requirements | | | | | | | | | | | |
| | Financial and Program Management | Standards for Bonding | | | | | | | | | | |
| | Property Standards | Program Budget | | | | | | | | | | |
| | Procurement Standards | | | | | | | | | | | |
| | Reports and Records | | | | | | | | | | | |
| | Termination and Enforcement | | | | | | | | | | | |
| | After the Award Requirements | | | | | | | | | | | |
| <u> X </u> | 3.) ACTIVITIES ALLOWED OR UNALLOWED | <u> Contract </u> | | | | | | | | | | |
| <u> X </u> | 4.) ALLOWABLE COSTS/COST PRINCIPLES | | | | | | | | | | | |
| | <u> X </u> OMB A-122 | <u> </u> OMB A-87 | | | | | | | | | | |
| | | <u> </u> OMB A-21 | | | | | | | | | | |
| <u> X </u> | 5.) CASH MANAGEMENT | <u> OMB Circular A-110, § .22 </u> | | | | | | | | | | |
| <u> X </u> | 6.) ELIGIBILITY | <u> Contract </u> | | | | | | | | | | |
| <u> X </u> | 7.) EQUIPMENT AND REAL PROPERTY MANAGEMENT | <u> OMB Circular A-110, § .34 </u> | | | | | | | | | | |
| <u> X </u> | 8.) MATCHING, LEVEL OF EFFORT, EARMARKING | <u> Contract </u> | | | | | | | | | | |
| <u> X </u> | 9.) PERIOD OF AVAILABILITY OF FUNDS | <u> OMB Circular A-110, § .28 </u> | | | | | | | | | | |
| <u> X </u> | 10.) PROCUREMENT AND SUSPENSION AND DEBARMENT | <u> OMB Circular A-110, § .40-48 </u> | | | | | | | | | | |
| <u> X </u> | 11.) PROGRAM INCOME | <u> OMB Circular A-110, § .24 </u> | | | | | | | | | | |
| <u> X </u> | 12.) REPORTING | <u> Contract </u> | | | | | | | | | | |
| <u> X </u> | 13.) SUBRECIPIENT MONITORING | <u> OMB Circular A-110, § .51 </u>
<u> and OMB Circular A-133, </u>
<u> § .100(d) </u> | | | | | | | | | | |
| <u> X </u> | 14.) SPECIAL TESTS AND PROVISIONS | <u> Contract </u> | | | | | | | | | | |
| <u> X </u> | 15.) AGREEMENT SETTLEMENT:
(Check all that are applicable) | <table border="0" style="width: 100%;"> <tr> <td>COST SHARING</td> <td style="text-align: right;"><u> X </u></td> </tr> <tr> <td>FEE FOR SERVICE</td> <td style="text-align: right;"><u> </u></td> </tr> <tr> <td>UNIT COST</td> <td style="text-align: right;"><u> </u></td> </tr> <tr> <td>LINE ITEM EXPENSE</td> <td style="text-align: right;"><u> </u></td> </tr> <tr> <td>OTHER (specify):</td> <td style="text-align: right;"><u> </u></td> </tr> </table> | COST SHARING | <u> X </u> | FEE FOR SERVICE | <u> </u> | UNIT COST | <u> </u> | LINE ITEM EXPENSE | <u> </u> | OTHER (specify): | <u> </u> |
| COST SHARING | <u> X </u> | | | | | | | | | | | |
| FEE FOR SERVICE | <u> </u> | | | | | | | | | | | |
| UNIT COST | <u> </u> | | | | | | | | | | | |
| LINE ITEM EXPENSE | <u> </u> | | | | | | | | | | | |
| OTHER (specify): | <u> </u> | | | | | | | | | | | |

Appendix G
Agreement Closeout Report (ACR)
Actual

Community Agency: ABC Agency, Inc.
Fiscal Year End: 9/30/2008
Funding Department: Department of Health and Human Services
Agreement Number: CFS-08-1040
Agreement Period: 7/1/07-6/30/08
Agreement Amount: \$180,000
Program/Service: Teen Health

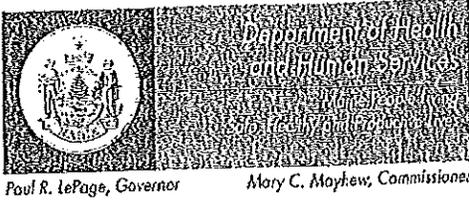
Part I	<u>Agreement Totals</u>	<u>Revenue</u>	<u>Expense</u>	<u>Balance</u>
1.	Per Financial Claim	293,750	281,250	12,500
	<u>Agreement Adjustments</u>			
2.	MaineCare/Program Expenses	(52,000)	(52,000)	0
3.	Restricted United Way/Equipment	(4,500)	(4,500)	0
4.	In-Kind Revenue/Expenses	(3,500)	(3,500)	0
5.	Available CFS-08-1040	10,000		
6.	Total Adjustments	<u>(50,000)</u>	<u>(60,000)</u>	<u>10,000</u>
7.	Totals Available for Cost Sharing	<u>243,750</u>	<u>221,250</u>	<u>22,500</u>

Part II	<u>Agreement Cost Sharing</u>			
<u>Funding Source</u>	<u>Actual%</u>	<u>Revenue</u>	<u>Expense</u>	<u>Balance</u>
8.	Agreement # (state funds)	90,000	81,685	8,315
9.	Agreement # (federal funds)	90,000	81,685	8,315
10.	All Other	63,750	57,880	5,870
11.	Totals	<u>243,750</u>	<u>221,250</u>	<u>22,500</u>

Part III	<u>Settlement</u>			
		<u>Department Payments</u>	<u>Allocated Expenses</u>	<u>Due Dept. (Agency)</u>
12.	Settlement	170,000	163,370	6,630

Notes to adjustments:

Line #5 To adjust CFS 08-1040 revenue per agency, \$170,000 to agreement amount, \$180,000 for cost sharing purposes.



Paul R. LePage, Governor Mary C. Mayhew, Commissioner

Community Agency: Sample Community Agency
 Fiscal Year End: 6/30/20XX
 Funding Department: Department of Health and Human Services
 Program/Service: Community Outreach
 Agreement Number: CDC-XX-XXXX
 Agreement Period: 7/1/20XX- 6/30/20XX
 Agreement Amount: \$145,000.00

**FEE FOR SERVICE AGREEMENT
 CLOSEOUT REPORT**

INVOICES SUBMITTED

INVOICES SUBMITTED BY AGENCY
 List all invoice dates and amounts:

INVOICE DATE	INVOICE AMOUNT	INVOICE DATE	INVOICE AMOUNT
	\$ -	Jan. 20XX	\$ 10,183.00
	\$ -	Feb. 20XX	\$ 13,564.00
	\$ -	March 20XX	\$ 19,548.00
	\$ -	April 20XX	\$ 9,584.00
	\$ -	May 20XX	\$ 11,520.00
	\$ -	June 20XX	\$ 13,564.00
	\$ -	July 20XX	\$ 10,265.00
	\$ -	Aug. 20XX	\$ 12,365.00
	\$ -	Sept. 20XX	\$ 10,458.00
	\$ -	Oct. 20XX	\$ 11,456.00
	\$ -	Nov. 20XX	\$ 9,568.00
	\$ -	Dec. 20XX	\$ 10,252.00

TOTAL INVOICED AMOUNT \$ 142,327.00

AMOUNT RECEIVED FROM DHHS

TOTAL AMOUNT RECEIVED FROM DHHS \$ 143,000.00

AMOUNT INVOICED MINUS AMOUNT RECEIVED \$ (673.00)

If Amount is positive, Amount is due Agency OR If Amount is negative, Amount is due DHHS

Checks: If an amount is owed DHHS, submit a check payable to "Treasurer, State of Maine" to: Attn: Team #2, DHHS Service Center, 221 State Street, Augusta, ME 04333. Attach a copy of this report to the check. Include a separate check for interest due from funds paid under the agreement.

Report Completed by: _____ Date: _____
 Reviewed by DHHS: _____ Date: _____

APPENDIX H
 AGREEMENT SETTLEMENT FORM
 DOT/Passenger Transportation
 D.O.T. SECTION 9
 URBAN TRANSPORTATION PROGRAM
 DEFICIT FUNDING
 Sample Community Agency
 Fiscal Year Ending:

CFDA#:
 Project Name/No:
 PIN#
 Agreement Period:

Total Operating Costs	\$
Less:	
Fares	\$
Net Operating Deficit	\$
Revenue:	\$
Federal	\$
State	\$
Local	\$
Total Revenues	\$
Surplus/Deficit	\$

Federal Participating Share

1. Amount of Non-Federal Funds Contributed:	
State	\$
Local	\$
Total Non-Fed	\$
2. 50% of the net Project Costs:	
Federal Share @ 50%	\$
3. Operating Deficit After Adding Local Funds But Before Adding UMTA Funds	
Operating Costs	\$
Less:	
Fares	\$
State	\$
Local	\$
Deficit Before UMTA	\$
4. Maximum Amount of Grant	
Federal Share Paid	\$
Participating Share (Steps 1-4)	\$
Federal Over (Under) Paid	\$

State Participation Share

Max Authorized Amount	\$
State Share @ 50%	\$
State Share Paid	\$
State Over (Under) Paid	\$

Conclusion:

Purpose:

To determine whether the federal share of operating costs complies with federal requirements. Participating shares paid can be no greater than the smallest of the following:

1. The amount of non-federal funds contributed;
2. 50% of the net project costs;
3. The operating deficit after adding local funds but before adding UMTA funds, or;
4. The maximum amount of the grant.

State Funds from MDOT cannot exceed the amount authorized, and in no event exceed 50% of the

AGREEMENT SETTLEMENT FORM
DOT/Passenger Transportation
D.O.T. SECTION #
RURAL TRANSPORTATION PROGRAM
DEFICIT FUNDING

Sample Community Agency
 Fiscal year Ending:

CFDA#:
 Project Name/No:
 PIN#
 Agreement Period:

	Operating	Admin	Capital	Total
Gross Expenditures	\$ _____	\$ _____	\$ _____	\$ _____
Less:				
Contra-Expenditures	\$ _____	\$ _____	\$ _____	\$ _____
Operating Revenue	\$ _____	\$ _____	\$ _____	\$ _____
Excess Unrestricted	\$ _____	\$ _____	\$ _____	\$ _____
Fed	\$ _____	\$ _____	\$ _____	\$ _____
Total Deductions	\$ _____	\$ _____	\$ _____	\$ _____
Net Expenditures/Deficit	_____ %	_____ %	_____ %	
<u>Federal Share</u>				
Maximum %	\$ _____	\$ _____	\$ _____	\$ _____
Amount Paid	\$ _____	\$ _____	\$ _____	\$ _____
Maximum Amount	\$ _____	\$ _____	\$ _____	\$ _____
Over (Under) Maximum	_____ %	_____ %	_____ %	
<u>State Share</u>				
Maximum %	\$ _____	\$ _____	\$ _____	\$ _____
Amount Paid	\$ _____	\$ _____	\$ _____	\$ _____
Maximum Amount	\$ _____	\$ _____	\$ _____	\$ _____
Over (Under) Maximum	_____ %	_____ %	_____ %	
<u>Summary:</u>				
Federal Over Paid	\$ _____	\$ _____	\$ _____	\$ _____
State Over Paid	\$ _____	\$ _____	\$ _____	\$ _____
Total Over Paid	\$ _____	\$ _____	\$ _____	\$ _____

Note: This form is used for all funds other than Section 9 - Urban Transportation Program Deficit Funding. Including, but not limited to: Section 3, 16, or 18 funds; JARC, Reverse Commute...

**AGREEMENT SETTLEMENT FORM
DOT/Passenger Transportation
LEASE AGREEMENTS**

Sample Community Agency
Fiscal Year Ending:

CFDA#:
Project Name/No:
PIN#
Agreement Period:

	CAPITAL	TOTAL
Gross Expenditure	\$	\$
Less:		
Local Share	\$	\$
	_____	_____
Net Expenditures/Deficit	\$	\$
<u>Federal Participating Share</u>		
Maximum %		
Amount Paid	\$	\$
Maximum Amount	\$	\$
Over(Under) Maximum	\$	\$
<u>State Participating Share</u>		
Maximum %		
Amount Paid	\$	\$
Maximum Amount	\$	\$
Over(Under) Maximum	\$	\$
<u>Summary</u>		
Federal Over(Under) Paid	\$	\$
State Over(Under) Paid	\$	\$
Total Over(Under) Paid	\$	\$

Notes

STATUTORY AUTHORITY: 5 M.R.S.A. c.148-C, sub-c. 1660-H



BASIS STATEMENT
MAINE UNIFORM ACCOUNTING AND AUDITING PRACTICES FOR
COMMUNITY AGENCIES
10-144 DHHS Ch. 30

The Division of Audit is repealing and replacing the Maine Uniform Accounting and Auditing Practices for Community Agencies due to significant changes that have occurred in accounting and auditing standards and federal regulations since the last major revision in December, 1996. Because these rules are major substantive rules, they are provisionally adopted. The rule changes include:

- Section .01 Definitions are changed to mirror federal definitions.
- Section .01 Definitions are expanded.
- Sections .02 Standards for the Schedule of Expenditures of Department Awards (SEDA) are established.
- Section .02 The requirement for an audited Schedule of Agreement Operations and a compiled Agreement Settlement Form has been eliminated.
- Section .02 Community agencies with annual agreement expenditures of \$100,000, but less than \$500,000 are required to have an entity-wide review of its financial statements and supplemental SEDA conducted by a qualified Independent Public Accountant.
- Section .02 Internal Control standards are changed to the five internal control standards issued by the Committee of Sponsoring Organizations (COSO) and adopted by the American Institute of Certified Public Accountants (AICPA).
- Section .02 Electronic submission is provided as the preferred method of submitting audits to the Department.
- Section .03 Department audit requirements are updated to mandate audits be performed in accordance with *Government Auditing Standards*.
- Section .03 Auditing requirements mirror generally accepted auditing standards, government auditing standards and Federal Circular OMB A-133.
- Section .03 Audit reporting standards are updated to mirror Federal Circular A-133.
- Section .03 Known and likely questioned costs have been quantified at \$1,000.
- Section .03 Audit compliance testing standards are updated to mirror Federal Circular A-133.
- Section .03 provides for a status of a low-risk auditee.
- Section .04 Compliance requirements for community agencies are updated to mirror Federal Circular OMB A-133.
- Section .04 The requirement for a budget revision when budgeted revenue differs from actual by 10% or \$5,000 has been eliminated.
- Section .04 The requirement for a budget revision for an unbudgeted line item in excess of \$1,000 has been eliminated.

- Section .04 The requirement for a budget revision when total expenses in the personnel and all other category exceed a certain threshold has been changed from the greater of \$1,000 or 10% to the greater of \$10,000 or 10%.
- Section .04 The requirement for a budget revision when total expenses in the subcontract category exceed a certain threshold has been changed from the greater of \$1,000 or 10% as a category to the greater of \$1,000 or 10% per subcontract.
- Section .04 Standards for liquidation of outstanding balances was added.
- Section .04 Appeals, resolution and sanctions have been changed to reflect current practice for both DHHS and DOT.
- Section .05 Department and Division of Audit responsibilities are updated to reflect current practice.

Statutory Authority

5 MRSA §1660-H; 22-A MRSA §205

Effective Date

July 1, 2012

IDENTIFICATION OF PRIMARY SOURCES OF INFORMATION

FOR ADOPTED RULE

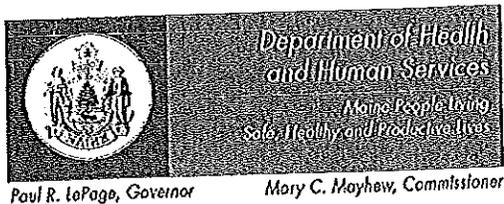
DHHS DIVISION OF AUDIT

MARCH 21, 2012

10-144, Chapter 30, Maine Uniform Accounting and Auditing Practices for Community Agencies

Pursuant to 5 MRSA §8063-B, the DHHS Division of Audit is required to file citations to primary sources of information relied upon in developing this proposed rule. The Division of Audit relied on the following sources of information:

- Federal Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.
- Federal Office of Management and Budget (OMB) Circular A-102, Grants and Cooperative Agreements with State and Local Governments.
- Federal Office of Management and Budget (OMB) Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.
- Federal Office of Management and Budget (OMB) Circular A-21, Cost Principles for Educational Institutions.
- Federal Office of Management and Budget (OMB) Circular A-87, Cost Principles for State and Local Governments.
- Federal Office of Management and Budget (OMB) Circular A-122, Cost Principles for Non-Profit Organizations.
- Generally Accepted Accounting Principles issued by the Financial Accounting Standards Board.
- Generally Accepted Accounting Principles issued by the Governmental Accounting Standards Board.
- Generally Accepted Auditing Standards issued by the American Institute of Certified Public Accountants.
- Government Auditing Standards issued by the Comptroller General of the United States.



Department of Health and Human Services
Financial Services - Audit
11 State House Station
Augusta, Maine 04333-0011
Tel. (207) 287-2403
Fax (207) 287-2601; TTY (800) 606-0215

March 21, 2012

TO: Interested Parties
FROM: Herb F. Downs, Director, Division of Audit
SUBJECT: Final Rule: Maine Uniform Accounting and Auditing Practices for Community Agencies
10-144 DHHS Ch. 30

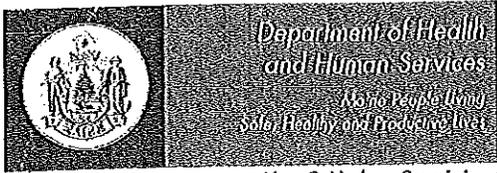
The Department is provisionally adopting final rules of the Maine Uniform Accounting and Auditing Practices for Community Agencies. The Maine State Legislature has directed the Department to adopt new rules that are consistent with federal standards and preserve the authority of community agency boards.

A public hearing was held on December 16, 2011. The comment deadline was December 26, 2011.

Rules and related rulemaking documents may be reviewed at and printed from the DHHS Division of Audit website at <http://www.maine.gov/dhhs/audit/social-services> or, for a fee, interested parties may request a paper copy of rules by calling 207-287-2403. For those who are deaf or hard of hearing and have a TTY machine, the TTY number is 1-800-606-0215.

A copy of the public comments and Department responses can be viewed at and printed from Division of Audit website or obtained by calling 207-287-2403 or TTY: 1-800-606-0215.

If you have any questions regarding the rule, please contact Caroll P. Thompson, CPA at 207-287-2775.



Paul R. LePage, Governor

Mary C. Mayhew, Commissioner

Department of Health and Human Services
Financial Services - Audit
11 State House Station
Augusta, Maine 04333-0011
Tel. (207) 287-2403
Fax (207) 287-2601; TTY (800) 606-0215

TO: Mary C. Mayhew, Commissioner, Department of Health and Human Services
FROM: Herb Downs, Director, Division of Audit
SUBJECT: Provisional Adoption of final rule – Maine Uniform Accounting and Auditing Practices for Community Agencies
DATE: March 5, 2012

Attached please find a final rule, Maine Uniform Accounting and Auditing Practices for Community Agencies.

1. **A brief explanation of the specific nature of the new rule:**

This rule was necessary to update the Maine Uniform Accounting and Auditing Practices for Community Agencies due to significant changes that have occurred in accounting and auditing standards since the last major revision in 1996. The Maine State Legislature had directed the Department to adopt new rules that are consistent with federal standards and preserve the authority of community agency boards.

2. **A statement of the reason for the adoption of the rule:**

This rule is being adopted to assist the Department in complying with Federal regulations.

3. **A brief assessment of its impact on clients or others who are affected:**

This rule will increase administrative efficiencies for community agencies and the CPA community as the audit requirements will decrease under the rule.

4. **Its potential impact, if any, on other Offices or Departments:**

The Maine Department of Transportation will be impacted by this rule. The Maine DOT has agreed with the changes to this rule.

5. **Its direct or indirect cost to the Department of Health and Human Services:**

None known.

6. **Any specific points of actual or potential public controversy:**

None known.

Reviewed by:

[Signature]

Deputy Commissioner – Program or designee

[Signature]

Deputy Commissioner – Finance or designee

Commissioner

[Signature] 3/22/12

Date

CMS

Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP)
Summary of Comments and Responses

The Maine Department of Health and Human Services (DHHS) held a public hearing on December 16, 2011 to obtain comments on a complete repeal and replace of MAAP regulations. This document summarizes all comments received during the public comment period ending December 26, 2011.

Comments Not Specific to Sections of the Proposed Rule:

1. A number of commenters stated that the proposed rule is an improvement over the version adopted on January 1, 2011. (1)(2)(3)(4)(5) One commenter stated that the proposed rule is the result of excellent work done by many people and would like to thank them all for their time and careful consideration. (1)

One commenter stated that he appreciated the work of the MAAP Advisory Committee and also noted the Department's willingness to make substantive changes that make these rules better than what was proposed previously. (2)

Another commenter stated her appreciation for the work by the Department and the MAAP Advisory Committee in making the rule less onerous for the commenter's members. (4)

Another commenter stated that she appreciated the collaboration to date between the MAAP Advisory Committee and the Department to make substantive changes and improvements to the former rules. (5)

Response -- The Department thanks the commenters for their comments. The Department did not make any changes to the final rule as a result of these comments.

Comments Specific to Proposed Rule

§ .01 B. 6.

2. One commenter stated that a budget revision is a substantive change to the terms and conditions of an agreement and should be considered an amendment and used as an example under Section .01 B. 2. Agreement amendment. (6)

Response -- The Department disagrees. An agreement amendment as defined in Section .01 B. 2 is a legally binding change or modification of the existing agreement. The DHHS Division of Purchased Services Policy and Procedure Manual clearly identifies the conditions under which an amendment to an agreement must be made. A budget revision as defined in Section .01 B. 6 is an approved change or modification to the existing budget and does not constitute a change to the total budget amount. The DHHS Division of Purchased Services Policy and Procedure manual clearly identifies the

conditions under which a budget revision will be approved. Moreover, the DHHS Division of Purchased Services Policy and Procedure Manual defines an amendment to be a “substantive change to the original agreement, which change(s) is agreed to by all parties to the agreement. An amendment will be in written form and signed by all parties to the agreement.” The DHHS Division of Purchased Services Policy and Procedure Manual defines Revision as a “nonsubstantive change to the original agreement usually suggested by one party and agreed to by other parties. It requires prior written approval agreed to by all parties.” The Department did not make any changes to the final rule as a result of this comment.

§ .01 B. 33.

3. One commenter stated that it was his understanding that this new definition of program income has been added in order to clarify the cost sharing/settlement where multiple funding sources share in the expense of a funded service. The commenter stated that this clarification needs to be part of the definition. The commenter proposes the following language:
 - a. “Program income, for the purpose of the cost sharing agreement/settlement where multiple funding sources share in the expense of a funded service, means gross income earned by”. (2)

Response – The definition of program income contained in the MAAP rule, with the exception of the last sentence, is replicated from the definition of program income found in Federal Circular OMB A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*. The last sentence of the definition of program income, (“MaineCare revenue, whether fee for service, unit based or cost settled, is program income.”) was added by the Department to clarify the Department’s position that MaineCare income meets the definition of program income contained in OMB Circular A-110, Subpart A, § ____2(x) Program income. The Department did not make any changes to the final rule as a result of this comment.

§ .01 B. 35.

4. One commenter stated that the definition of restricted income should be changed to the definition agreed to by the previous MAAP Advisory Committee and included in the rule adopted on January 1, 2011 and subsequently repealed. The commenter noted that the previous definition stated: “Restricted revenue is income from organizations or individuals that require the funds be used for a specific purpose within a program.” The commenter stated that all restricted revenue is eliminated dollar for dollar with expense prior to cost sharing and limits the ability of the community agencies to retain surpluses. The commenter said that community agencies keep all deficits, and the amount of surplus agencies are allowed to keep is so small that it hampers the agency’s ability to maintain the agency as a “going concern”. The commenter stated that the effect of the definition is that contributions to a program from a source like the United Way are used to supplant

State agreement funds. The commenter stated that he does not believe this is the donor's intent. (2)

Another commenter stated that the definition of restricted and unrestricted revenue and the issue of inclusion or exclusion of charitable donations with respect to cost sharing are issues for the agencies that the commenter represents. The commenter stated that charitable contributions are critical to an agency's ability to maintain core services and to meet the needs of vulnerable clients. The commenter stated that the agencies she represents do not accept that the Department's definitions and interpretation are within the mainstream of practice. The commenter stated that she does not think that the DHHS proposed interpretation complies with generally accepted accounting principles or guidance provided by any authoritative accounting body regarding the definition of unrestricted contributions and their eligibility to cost share. The commenter supports the language put forward by Paul Morgan, CFO of Penquis (see commenter (2) above). The commenter said that the definition of restricted revenue should be changed to read: "restricted revenue is income from organizations or individuals that require the funds be used for a specific purpose within a program." The commenter reiterated that eliminating restricted revenue from cost sharing limits the ability of community agencies to retain surpluses. She said that community agencies keep all deficits, but the amount of surplus retained is so small that it hampers a community agency's ability to maintain an agency as a "going concern". The commenter stated that the effect of the definition is that contributions from a source like the United Way are used to supplant state agreements funds, presumably not the donor's intent. The commenter recommended that the definition that was agreed to by the previous MAAP Advisory Committee and in the prior draft rules be used. (3)

One commenter stated that cost sharing contract definitions are unduly restrictive, subverting donor intent. The commenter stated that the definition of restricted income in the proposed rule supports recent interpretations of MAAP regulations in which other source donations need to be fully spent before State dollars are spent for purchased services. The commenter said that this interpretation does not appear to be a common interpretation across other states and represents a radical approach to cost sharing. The commenter stated that the agencies the commenter represents are concerned that philanthropic dollars raised in good faith to augment services purchased by the State, are instead being used by the State to cover the costs of the purchased services, contrary to donor intent to better serve the targeted populations. The commenter said that, as donors begin to understand this practice, it will have a chilling effect on charitable giving for the services which the commenter said he does not believe is the intent of the legislature nor in the best interest of the nonprofit service providers or the people they serve. The commenter urged the Department to revisit this interpretation and work with the regulated community to come up with definitions that are more in line with practices in other states and beneficial to all parties. (4)

Response: The Department believes that restricted donations, most of which are recurring, that are restricted for a particular agency program should be spent in the

program year for which they are intended. Furthermore, Financial Accounting Standards Board Accounting Standards Codification 958-205-45-11 states:

If an expense is incurred for a purpose for which both unrestricted and temporarily restricted net assets are available, a donor-imposed restriction is fulfilled to the extent of the expense incurred, unless the expense is for a purpose that is directly attributable to another specific external source of revenue.

The Department has interpreted this statement to mean that if an agency has incurred expenses which are eligible to be paid from either unrestricted or restricted funds, the agency must charge the restricted funds first. Therefore, the elimination of restricted revenue dollar for dollar against restricted expense prior to cost sharing is in keeping with generally accepted accounting principles. The Department did not make any changes to the final rule as a result of this comment.

§ .01 B. 45.

5. One commenter stated that the definition for unrestricted revenue is problematic and recommends that the language of the prior Advisory Committee be used. That language defined unrestricted revenue as follows: "Unrestricted revenue from funding sources to a community agency that is not restricted for a specific purpose within a program by the donor. Revenue that has been designated to a specific program, but not a specific purpose is considered unrestricted revenue." (2)

Another commenter stated that the definition for unrestricted revenue is problematic and recommends that the language of the prior Advisory Committee be used. That language defined unrestricted revenue as follows: "Unrestricted revenue from funding sources to a community agency that is not restricted for a specific purpose within a program by the donor. Revenue that has been designated to a specific program, but not a specific purpose is considered unrestricted revenue." The commenter stated that she does not believe the purpose of charitable gifts is to supplant monies authorized by the legislature to provide service to victims in Maine. She stated that domestic violence organizations receive donations throughout the year that are intended to expand the range of services either in kind or in quantity. The commenter stated that own contributions, United Way award, and other grant awards, for example, need to be managed in a way that allows them to be leveraged for increased capacity within organizations to meet increased client needs and decreased state/federal revenues. She stated that donors need to be assured that the money they provide will not end up supplanting the State's burden and returned to the State. The commenter stated that she believes that cost sharing principles allow for that burden of financial responsibility to be shared and that proper locations for charitable gifts are within applicable cost sharing parameters. (3)

Response: For reasons explained in the response to comments listed in #5 concerning restricted revenue, the Department has made no changes to the final rule as a result of this comment.

§ .02 B. 3.(a), § .02 C. 1.(b) and § .03 A. 2.(a)

6. One commenter stated that the three requirements noted above require additional audit work which will increase costs for the community agencies. The commenter suggested that, in this time of scarce resources, perhaps something other than an audited SEDA might suffice. (1)

Response – Title 5, Part 4, Chapter 148-C, Maine Uniform Accounting and Auditing Practices for Community Agencies requires community agencies expending \$500,000 or more of agreement funding from the Department must have an entity wide financial and compliance audit of the agency's financial statements and agreement supplemental schedules prepared by a qualified independent public accountant. The Department did not make any changes to the final rule as a result of this comment.

§ .02 C. 1.

7. One commenter stated that this section was changed to add that the SEDA would match to interim quarterly reports submitted to the Department. The commenter stated that this is an improvement over previous language that the SEDA needed to match to the Agreement Close-out report. The commenter said that the problem is that an agency fiscal year may not match up to the interim quarterly report period. The commenter recommends the following wording to resolve this issue: "Purpose: The SEDA provides the Department with information identifying agreement expenditures based on the Agreement Close-Out Report(s) (ACR) and interim quarterly reports submitted to the Department during the fiscal year, when those reports match to the fiscal year end of the agency." (2)

Response – The Department agrees with the commenter that when an agency's fiscal year does not match up to an interim quarterly report, the rule should provide additional guidance. § .02 C. 1. has been changed to read as follows:

Purpose: The SEDA provides the Department with information identifying agreement expenditures based on the Agreement Close-out Report(s) (ACR) and interim quarterly reports submitted to the Department during the current fiscal year. When an agency has a fiscal year end that does not match up to the interim quarterly report period, the agency will obtain the necessary interim information from its accounting records.

§ .02 C. 1. And 3.

8. One commenter stated that the MAAP rules requires the SEDA to match the Agreement Close-out Report (ACR) but that there is nothing in the rule that specifies the timeframe an agency has to submit the ACR. The commenter stated that current practice by some Agreement Administrators is that the ACR due in 30 to 45 days at the end of an agreement. The commenter stated that this time frame is inadequate to capture all accounting data necessary to submit an accurate ACR. The commenter recommended the

following language be added to the rule: "Agreement Close-out Reports are due to the Department no later than ninety (90) days from the end of the agreement. Agreement Administrators may require the Agreement Close-out reports earlier, but no earlier than sixty (60) days after the agreement end date." (2)

Response – The due dates of interim and final reports to the Department are the purview of the Division of Purchased Services and are beyond the scope of these rules. The Department did not make any changes as a result of this comment.

§ .02 F. 6.

9. One commenter stated that he likes the ability to submit the MAAP report electronically to the Division of Audit. The commenter said he would like to see language in the rule directing agreement administrators and others who need a copy of the agency MAAP submission to obtain the copy through the Division of Audit rather than requesting it from the community agency. The commenter suggested language as follows: "Department personnel who need or want a copy of the community agency submitted reports will obtain them through the Division of Audit." (2)

Response – The Department agrees that a community agency should not have to submit the required MAAP reports to the Department multiple times. The language of § .02 F. 6 has been changed as follows:

Electronic submission is recommended and should be sent to dhhs.audit@maine.gov for submission to the Maine Department of Health and Human Services. Electronic submissions to the Maine Department of Transportation should be sent to OfficeofAudit,MaineDOT@maine.gov. State personnel who require a copy of the MAAP report for a community agency should contact the Division of Audit for the Maine Department of Health and Human Services or the Office of Audit for the Maine Department of Transportation.

§ .03 C. 1.

10. Two commenters encouraged the Department to adopt the federal 25% of total expenditures testing for low-risk auditees. The commenters stated that whenever the state varies from the federal requirements, audit and compliance costs increase. The commenters said that they do not believe that the value of the additional testing offsets the increase in costs. The commenters suggested the Department add a new item 2 that addresses testing of 25% for a low-risk auditee. (1) (2)

Another commenter stated that her agency supports using the federal 25% of total expenditures for low-risk auditees and would encourage the addition of that language to the rule. (5)

Response - The Department agrees and made the following changes: Section .03, C.1.(b) has been changed to allow an Independent Public Accountant to classify an agency as a low-risk auditee and perform compliance testing on agreements that make up at least 25% of total expenditures claimed. Section .03, C.2 was added to define the criteria to be classified as a low-risk auditee.

§ .03 C. 2.

11. One commenter recommended that the Department adopt the American Institute of Public Accountants (AICPA) definition of materiality, which is not a specific number but is based on facts and circumstances. (1)

Response - Paragraph .13 of the Statement of Auditing Standards (SAS) 117, *Compliance Audits*, promulgated by the AICPA, states that the auditor should establish and apply materiality levels for compliance based on the governmental audit requirement. In paragraph .A8 of the Application Guidance and Explanatory Material, it states that "because the governmental audit requirement usually is established by the grantors and the auditor's report on compliance is primarily for their use, the auditor's determination of materiality usually is influenced by the needs of the grantors." For many years, the Department has had budget compliance requirements for all cost settled agreements. Materiality for budget compliance has been quantified to meet the needs of the Department. The Department did not make any changes as a result of this comment.

§ .03 C. 2.

12. One commenter said that the Department's new position on the treatment of subcontracts as restricted funding with no variance between budgeted and actual allowed is problematic. The commenter said that a subcontract amount is not necessarily known at the time the agreement is being negotiated with the Department. The commenter stated that, because the level of work may change and the agency may need to move funds between other categories, there should be some flexibility to do this without requiring a budget revision. Additionally, the commenter states that Department Agreement Administrators do not want to review and approve budget revisions many times during the course of the agreement. The commenter asked, if the service being purchased is supplied and the agency has to shift its budgeted category amount around to do that, why should the agency be penalized for not accomplishing an administrative task of a budget revision? The commenter recommended that the subcontract category be included in the paragraph describing the variance allowed for personnel and the all other category. (2)

Another commenter stated that her agency does not support the Department's new position on the treatment of subcontracts as restricted funding and with no variance between budgeted and actual allowed. The commenter said she does support the Department's existing practice of allowing a budget to actual variance similar to personnel and the "all other" category. The commenter stated that, if there are certain types of subcontracts that can be identified and defined within the rules to demonstrate

circumstances where there would not be any variance between budget to actual, while other types could have a variance, that would be an acceptable alternative. (5)

Response -- The Department agrees and has made the following changes: In Section .03 C. 3 (b) has been changed to state;

Total expenses per subcontract vary from the budgeted amount by at least 10% or \$1,000, whichever is greater.

§ .03 C. 5.(e)

13. One commenter stated that this section requires community agencies to monitor agreement advances and return interest from advances to the Department. The commenter stated that this section should include an offset for the agreements that the Department is in arrears paying, with any net interest due to the Department. Additionally, the commenter stated that federal rules allow community agencies to retain up to \$250 of interest income annually. The commenter recommended that this section read as follows: "The community agency has a system in place to monitor agreement advances and amounts owed to them from the Department and ensure that interest from the net of these amounts in excess of \$250 annually is reimbursed to the Department." (2)

Response -- It is the Department's intention that community agencies follow applicable federal circulars with regard to cash management compliance requirements. This particular section relates to the minimum workpaper requirements for Independent Public Accountants in documenting the testing of a community agency's administrative controls and compliance requirements. In the interest of clarity, the Department has modified the wording as follows:

The community agency has a system in place to monitor agreement advances and ensure interest from advances is reimbursed to the Department in accordance with applicable federal circulars.

§ .03 C. 5.(f)

14. One commenter stated that the Department requires the community agency to liquidate balances owed to the Department within 90 days of the end of the agreement. The commenter stated that there currently is nothing in MAAP that says when the Department must liquidate balances due to community agencies. The commenter recommended that the following be added as a separate letter to this section: "The Department will liquidate all balances due the community agency within 90 days of receiving the Agreement Close-out Report." (1)

Response -- Payments made by the Department to a community agency are beyond the scope of these rules. In addition, this particular section of the rule relates to minimum workpaper requirements for Independent Public Accountants that document testing of the

community agency's administrative controls and compliance requirements. The Department did not make any changes as a result of this comment.

15. One commenter stated that the A-133 and MAAP IPA reports are due no later than 9 months after the fiscal year end. The commenter stated that, until A-133 and MAAP reports are completed, there is no established notice of debt. The commenter stated that until various cost reports are submitted, and organizations are able to complete MAAP requirements, therefore no determination of debt (obligation) has taken place. (6)

Response: The Department disagrees with this comment. The Notice of Debt required in accordance with 22 M.S.R.S §1714-A are rules that are specific to MaineCare payments and are not applicable to social service agreements. Social Service agreements are subject to applicable Federal circulars and MAAP as detailed in Section .04 of the MAAP rule. Nonprofit and educational entities must follow OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations*. In addition, non-profit agencies must also follow OMB Circular A-122, *Cost Principles for Non-Profit Organizations* and educational entities must follow OMB A-21, *Cost Principles for Educational Institutions*. Local governments and For-Profit entities must follow both OMB Circular OMB A-102, *Grants and Cooperative Agreements with State and Local Agencies* and OMB A-87, *Cost Principles for State and Local Governments*. For non-profit and educational institutions, OMB Circular A-110, § __.71(b), states that "a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions." The Department did not make any changes as result of this comment.

§ .04, C. 1.(d), § .04. C. 1.(e), § .05, A. 2. and § .05. B. 9.

16. Two commenters stated that all of the sections listed (above) give authority to Department employees, but, as written, hold the community agencies, not the Department employees, responsible for any errors or omissions committed by the Department employees. The commenters stated that under these proposed rules, the only truly responsible party to any Department agreement is the community agency, which the commenters said is being held to the unrealistic requirement of having to negotiate and manage both sides of the agreement. The commenters stated that this is inherently unfair. The commenters said that by giving authority without accountability or consequence, this provides no incentive for Department employees to do their work well. The commenters added that this is a major flaw in the MAAP rule that could be resolved by stating in the rule that where there is a contradiction between MAAP and the Department agreement, the terms of the agreement will prevail. (1) (2)

Another commenter stated that where there are discrepancies between a contract and MAAP regulations, the contract language should prevail. The commenter stated that the current draft rules do not adequately fix the situations where a service provider fulfills a contract only to find out after the fact that the contract language contradicts MAAP

regulations. The commenter stated that in these situations, the Department has ruled that even though the services have been provided, the costs are not allowable under MAAP and the money has been recalled. The commenter stated that this practice unfairly places the burden on the regulated community and provides no incentive for those writing the contracts to ensure compliance with MAAP. The commenter encouraged the Department to add language to the rules that specifically states that when there are discrepancies between a contract and the MAAP regulations, the contract language will be honored. (4)

Response – The Department cannot contract to violate its own rules. Both the regulated community and the Department are on notice of and obligated as a matter of law to follow those rules. No change was made to this rule as a result of these comments.

§ .04 C. 1. (d) and (e)

17. One commenter stated that MAAP defines an agreement as legally binding in Section .01, B. 1. The commenter stated that this is in conflict with State contract language. The commenter noted that the State's boiler-plate language in Rider B, 20 states that "agreements must have the approval of the State Controller and the State Purchases Review Committee before it is considered a valid enforceable agreement." The commenter stated that changes in the documents that do not follow such approval process are neither valid nor enforceable, and are therefore not auditable agreements. (6)

Response – Minor changes to an agreement, such as a budget revision, do not require the approval of the State Controller and the State Purchases Review Committee. Other changes, such as the amount of the agreement or the dates of the agreement, are considered contract amendments and are subject to the approval of the State Controller and the State Purchases Review Committee. The Department did not make any changes to the final rule as a result of this comment.

§ .04 C. 3.

18. One commenter stated that the community agency must request a budget revision at least thirty (30) days prior to the agreement termination date. The commenter noted that if the revision approval is not granted in writing prior to the date of the required final report, all costs that exceed the budget thresholds shall be deemed questioned costs. The commenter also noted that any variance between the actual agency commitment and the budgeted amount shall be adjusted on the agreement settlement form prior to cost sharing. The commenter stated that this rule again places all the responsibility for failed state performance on the community agency. The commenter stated that the Department must be held accountable for its performance and that there must be consequences for the Department's failure to respond to a budget revision in a timely manner. The commenter stated that if the Department does not respond in a timely fashion, the revision request should be treated as approved. (1)

Another commenter stated that this section requires community agencies to request a budget revision 30 days before the end of the agreement. The commenter stated that

there is no corresponding requirement for when an Agreement Administrator needs to respond with an approval or rejection of the budget revision. The commenter stated that the section simply says if the agency does not have an approval by the time the close-out report is due, the agency must settle on the budget in existence prior to the budget revision request and any variance outside the thresholds will be deemed questioned costs. The commenter recommended the following change to the last paragraph of the section:

The community agency must request a budget revision at least thirty (30) days prior to the agreement termination date. The Agreement Administrator must respond in writing accepting or rejecting the budget revision or propose an alternative budget revision within fifteen (15) days of receiving the budget revision request. If the Agreement Administrator does not reply within this time period the budget revision is deemed accepted by the Agreement Administrator as long as the community agency can prove receipt of the budget revision request by the Department. If the revision approval is not granted, all costs that exceed the approved agreement budget thresholds shall be deemed questioned costs. In addition, any variance, if any, between the actual agency commitment and the budgeted amount shall be adjusted on the agreement settlement form prior to cost sharing. (2)

Another commenter said that her agency can support the requirement of requesting a budget revision 30 days before the end of the agreement, if there is a corresponding requirement for an Agreement Administrator to respond with an approval or rejection of the budget revision in a given timeframe or that no response deems acceptance. The commenter stated that her experience has been to not receive formal approval and so the commenter would expect a lot of frustration and uncertainty if this requirement were not equally balanced. (5)

Another commenter stated that MAAP defines an agreement as legally binding in Section .01, B. 1, which the commenter said is in conflict with State contract language. The commenter noted that the State's boiler-plate language in Rider B, 20 states that "agreements must have the approval of the State Controller and the State Purchases Review Committee before it is considered a valid enforceable agreement." The commenter stated that changes in the documents that do not follow such approval process are neither valid nor enforceable, and are therefore not auditable agreements. (6)

Response – In its Policy & Procedures Manual, the DHHS Division of Purchased Services gives Agreement Administrators fifteen (15) days to approve a budget revision. It is not the intention of these MAAP rules to reiterate policies and procedures for Department personnel, as those policies and procedures are beyond the scope of these rules. The Department did not make any changes to the final rule as a result of comments made by commenters (1), (2) and (5).

Minor changes to an agreement, such as a budget revision, do not require the approval of the State Controller and the State Purchases Review Committee. The Department did not make any changes to the final rule as a result of the comment made by commenter (6).

§ .04. C. 3.(d)

19. One commenter stated that this section should be amended to read: “The total agency commitment differs from the budgeted amount by at least 10% or \$1,000, whichever is greater.” (1)

Response – An agency commitment is defined in the MAAP rule as the amount of funding the community agency has pledged to the program. Unlike expenses where the budgeted expenses do not always match actual expenses, the agency commitment is a fixed number, where the budgeted commitment should equal the actual funds committed. Therefore, the Department does not allow for a variance in what should be a fixed amount. Should the agency need to change its commitment for good cause during the year, the agency can request a budget revision. The Department did not make any changes to the final rule as a result of this comment.

§ .04 C. 4.

20. One commenter stated the second sentence of this section should be changed to: “The Department enters into agreements where the Department participates in programs with multiple funding sources. Below are the Department cost sharing principles to be followed in the budget and settlement process for the funds committed to programs with multiple funding sources.” (1)

Response – The Department has opted to describe the settlement process for all agreements, whether the agreement is funded by Department funds or multiple funds. If the agreement involves only Department funds, many of the steps described in the section would not be applicable. The Department has changed the title of this section to “Cost Sharing Settlements” from the original “Cost Sharing Settlements (Multiple Funding Sources).”

§ .04 C. 4.(a)

21. One commenter stated that the last sentence in this section exemplifies the mischaracterization of the settlement process. The commenter stated that the settlement process is not a “cost sharing” process. The commenter said that the process developed in MAAP for settlement is a process of revenue sharing, and its purpose is to bring principles that allow the State to share in all possible funding sources versus paying for an equitable amount of costs. (6)

Response – Section .01 B. 14. defines a cost shared settlement as an agreement where multiple funding sources share in the expense of a funded service. Whether or not Department funding pays for an equitable amount of costs is beyond the scope of these rules. The Department did not make any changes to the final rule as a result of this comment.

§ .04, C. 4.(i)

22. One commenter stated that calling the final financial report the “agreement closeout report” is inaccurate. The commenter stated that the Agreement Closeout Reports are due within 90 days after the agency’s fiscal year end (and are typically unaudited by the IPA), whereas the MAAP reports are due within 9 months and represent the true “final financial report”. (6)

Response – The Department disagrees. Under Section .02, C. the community agency will prepare the Schedule of Expenditures of Department Agreements (SEDA) based on its final closeout report(s) and any interim reports for agreements that have not closed. The IPA will opine on the SEDA as it was prepared by the agency. The nine-month time frame is to give an agency time to have its audit completed. The final closeout report, which is due no later than 90 days after the agreement termination date, is the report that the Department will settle. Any reports submitted after that time will not be accepted, as the Department has unencumbered any remaining funds in the agreement. The Department did not make any changes as a result of this comment.

§ .04 C. 6. and §.05 B.

23. One commenter stated that this section references the “examination process” but fails to establish a clear process for both parties. The commenter stated that it seems reasonable to establish time frames for State responsibilities similar to those established for community agencies. (6)

Another commenter stated that MAAP sets forth the time frame within which community agencies must file their reports to the Department. The commenter stated that this section indicates the time frames within which community agencies must respond to a Department examination of their submitted reports. The commenter said that this section is silent as to the time frame within which the Department must perform an examination of the community agency’s submitted reports. The commenter stated that this has been an area of great frustration in the past where it could be several years after the audit report has been submitted before the Department issues an examination report. The commenter stated that without timely feedback, the community agency does not receive timely feedback of any problems encountered with the settlement. The commenter said that a second problem with untimely examinations is that the agency has only sixty (60) days to respond to an examination. The commenter stated that when the examination is for an older year, the agency needs to go to the historical filing sites and pull out the agreement files to review them to ensure that agency is in agreement with the Department, and if not, research and prepare a response, all the while continuing current operations. The commenter said that while the Division of Audit has made a concentrated effort to get caught up on its examinations, there needs to be something in the MAAP rules so history does not repeat itself. The commenter recommended the following language be added to Section .04, C. 6.(c):

The Division of Audit shall prepare an examination report of community agencies selected for Department examination. The results will be communicated to the community agency and the Department within nine months of the community agency submission of their statements to the Division of Audit. Failure to issue an examination report to the community agency within this timeframe constitutes acceptance by the Department of the report as filed. (2)

Response – The Division of Audit has made a concentrated effort to become current with its examinations of community agencies. However, the Division of Audit is not guaranteed that sufficient resources will be provided in the future to allow the Division to continue in its efforts to bring all examinations current. The Department made no changes to the final rule as a result of this comment.

§ .04 D. 1.

24. One commenter stated that under Step b, there is a 1. under DHHS appeals, but a step b under DOT step b appeals. To be consistent, the commenter recommends a 2. next to the DOT.

Response – The Department agrees and has made the suggested change.

§ .05 A. 2.

25. One commenter stated that the word “negotiate” should be changed to “establish,” as the process does not allow for negotiation to occur between the parties. (6)

Response – The Department disagrees. According to the Merriam-Webster Dictionary, the definition of negotiate is: “To confer with another so as to arrive at the settlement of some matter”. It is the Department’s view that all agreements are negotiated. For example, the Department has approval authority over an agency’s budget, but the Department does not set the budget for the agency. The Department did not make any changes to the final rule as a result of this comment.

Commenters:

1. Charles Newton, Penquis
2. Paul L. Morgan, CMA, Penquis
3. Julia Colpitts, Maine Coalition to End Domestic Violence
4. Brenda Peluso, Maine Association of Nonprofits
5. Debra Parry, Seniors Plus
6. Dale Hamilton, Community Health and Counseling Services

Approval of Rulemaking Activity
Prepared by the Office of the Secretary of State

Pursuant to Executive Order 09 FY 11/12 "An Order to Improve Review of the Rulemaking Process", issued by the Governor on January 10, 2011, all Administrative Procedure Act (APA) proposals and adoptions must be approved by the Governor's office before the APA filing will be accepted by the Office of the Secretary of State.

A copy of this form, signed by the appropriate staff member of the Governor's Office, must be filed with each filing presented to the Secretary of State's office.

Agency Department of Health and Human Services, MaineCare Services

Name of contact person for filing: Caroll P. Thompson, CPA

Phone number: 287-2775

Email Address: Caroll.Thompson@maine.gov

Chapter Number and Rule Title: Section 10-144, Chapter 30, Maine Uniform Accounting and Auditing Practices for Community Agencies

Statutory Authority: 5 M.R.S.A. § 1660-H; P.L. 2011, ch 304, Sec. I-2

Type of Rulemaking Activity:

- Proposal
 Provisional Adoption
 Adoption

Is this rulemaking activity being submitted to comply with changes in State and/or Federal law?

- Yes (If yes, please provide statutory reference Federal Circular OMB A-110, A-122 and A-133)
 No

Authorization by the Governor's Office

Authorization to proceed with the requested rulemaking activity referenced above is hereby granted on 3-14-12
(date)

Signature: Paul R. LePage
(Original signature, personally signed by authorized staff of Governor's Office)

Printed Name/Title: PAUL R. LEPAGE GOVERNOR

ADMINISTRATIVE PROCEDURES ACT

CHECKLIST

AGENCY: Department of Health and Human Services, Division of Audit

CHAPTER # AND TITLE OF RULE: Section 10-144, Chapter 30, Maine Uniform Accounting and Auditing Practices for Community Agencies.

PROPOSED RULE

1. Was this rule listed on the last or previous regulatory agendas? Yes
2. Date of Notification of: Anyone on mailing list November 30, 2011
Any trade, industry or professional group
Any trade publications
3. Date Notice of Rule-making Proposal sent to Secretary of State November 22, 2011
4. Date fact sheet sent to Executive Director of Legislative Council November 22, 2011
5. Date of Publication in Secretary of State's Rule-making Ad November 30, 2011
6. Date of Hearing: December 16, 2011
7. Comment Deadline: December 26, 2011

ADOPTED RULE:

8. Is rule consistent with what was proposed? Yes
(If not, please address the changes in the Summary of Comments.)
9. Was hearing continued? No 9a. Was Comment Deadline extended? No
10. Was the comment period reopened because of numerous changes to the proposed rule? No
11. Was a second notice published in the rule-making ad? No When?
12. Is the person signing Certification Statement (MAPA-1 #9) authorized by statute to adopt the rule for the department? Yes
13. Was rule adopted within 120 days from comment deadline? Yes
14. Was the rule approved & signed by the Attorney General's Office? Yes
Within 150 days from comment deadline? Yes
15. Is Basis Statement included? Yes Is Summary of Comments included? Yes
Is a copy of fact sheet included? Yes Or submitted with proposed rule? Yes