

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
TDHCA Governing Board Approved Draft of
10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.403
Single Audit Requirements

Disclaimer

Attached is a draft of proposed 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.403 Single Audit Requirements. This draft was approved by the TDHCA Governing Board on November 6, 2025. This action entails repeal of the current rule and replacement with a new rule. This document, including its preamble, is expected to be published in November 21, 2025, edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment and can be found at the following link: <https://www.sos.texas.gov/texreg/index.shtml>.

In compliance with §2001.023, Texas Government Code, a summary of the proposed rule follows:

This rule currently requires that Subrecipients or Multifamily Development owners applying for or in receipt of direct loan funds (MF owners), that expend \$1,000,000 or more in an entity's fiscal year in federal and/or state awards or have an outstanding loan balance associated with a federal or state resource of \$1,000,000 with continuing compliance requirements, must have a Single Audit or program-specific audit conducted. The Single Audit on occasion identifies issues that would suggest that the Subrecipient or MF owner has weaknesses in their operations and/or controls that indicate that they are not likely to be strong candidates in receiving or handling state or federal funds responsibly. This may occur at the time of the Subrecipient or MF owner applying for funds or during the terms of a contract. The Department's rules have not been specific on which types of audit findings may prompt the Department not to fund, or to stop funding, a contract. The proposed rule action revises the rule to more clearly specify that the Department will not award funds, and/or may cancel a contract with a Subrecipient or MF Owner, when certain audit findings have been identified in the Single Audit and are significant enough that the state or federal funds are being put at risk. This rule change is intended to protect federal and state funds from being used improperly, and to minimize the likelihood of disallowed costs that may need to be repaid by the Subrecipient, and ultimately by the Department. This rule will be returned to the Board for final adoption.

Public Comment

Public Comment Period: Start: 8:00 a.m. Austin local time on November 21, 2025
End: 5:00 p.m. Austin local time on December 21, 2025

Comments received after 5:00 p.m. Austin local time on December 21, 2025, will not be accepted. Written comments may be submitted electronically within the designated public comment period to:
brooke.boston@tdhca.state.tx.us.

Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment. Please be aware that all comments submitted to the TDHCA will be considered public information.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Departamento de Vivienda y Asuntos Comunitarios de Texas
Borrador aprobado por la Junta Directiva del TDHCA
respecto a la sección [§] 1.403 [“Requisitos de auditorías únicas”] del subcapítulo D [“Directriz
uniforme para receptores de fondos federales y estatales”] del capítulo 1 del título 10 del Código
Administrativo de Texas (TAC)

Descargo de responsabilidad

Se adjunta un borrador de la propuesta para la respecto a la sección [§] 1.403 [“Requisitos de auditorías únicas”] del subcapítulo D [“Directriz uniforme para receptores de fondos federales y estatales”] del capítulo 1 del título 10 del Código Administrativo de Texas (TAC). Este borrador recibió aprobación por parte de la Junta Directiva del TDHCA el 6 de noviembre de 2025. Esta acción implica la derogación de la regla actual y su sustitución por una nueva. Se espera que este documento, incluyendo su preámbulo, se publique en la edición del *Texas Register* del 21 de noviembre de 2025. Esa versión publicada constituirá la versión oficial para fines de comentarios públicos y se puede encontrar en el siguiente enlace: <https://www.sos.texas.gov/texreg/index.shtml>.

De conformidad con la sección [§] 2001.023 del Código de Gobierno de Texas, se incluye a continuación un resumen de la regla propuesta:

Esta regla exige en la actualidad que los receptores secundarios o propietarios de urbanizaciones multifamiliares que soliciten o reciban fondos de préstamos directos (propietarios de urbanizaciones multifamiliares) que gasten \$1,000,000 o más en el año fiscal de una entidad en adjudicaciones federales o estatales, o tengan un saldo pendiente de préstamos asociado con un recurso federal o estatal de \$1,000,000 con requisitos de cumplimiento continuo, deben efectuar una auditoría única o una auditoría para programas específicos. En determinadas ocasiones, la auditoría única identifica problemas que sugerirían que el receptor secundario o el propietario de urbanizaciones multifamiliares tiene debilidades en sus operaciones o controles que señalan que probablemente no sean candidatos sólidos para recibir o gestionar fondos estatales o federales de manera responsable. Esto puede suceder en el momento en que el receptor secundario o el propietario de urbanizaciones multifamiliares solicita fondos o durante la vigencia de un contrato. Las reglas del Departamento no han sido específicas sobre qué tipos de conclusiones de auditorías pueden motivar al Departamento a no financiar o dejar de financiar un contrato. La acción reglamentaria propuesta modifica la regla para especificar de manera más clara que el Departamento no adjudicará fondos o puede anular un contrato con un receptor secundario o propietario de urbanizaciones multifamiliares cuando se hayan identificado determinadas conclusiones de auditorías en la auditoría única y sean lo suficientemente significativos como para poner en riesgo los fondos estatales o federales. Este cambio reglamentario tiene como objetivo proteger los fondos federales y estatales del uso indebido y minimizar la probabilidad de costos no permitidos que deban reembolsarse por parte del receptor secundario y, en última instancia, por el Departamento. Esta regla será devuelta a la Junta para su adopción final.

Comentarios del público

Periodo de comentarios del público:

Inicio: 8:00 a. m., hora local de Austin, del 21 de noviembre de 2025

Finalización: 5:00 p. m., hora local de Austin, del 21 de diciembre de 2025

No se aceptarán los comentarios que se reciban después de las 5:00 p. m., hora local de Austin, del 21 de diciembre de 2025. Los comentarios por escrito pueden enviarse de manera electrónica dentro del período designado de comentarios del público a brooke.boston@tdhca.state.tx.us.

Se anima a quienes formulen comentarios públicos a que hagan referencia al borrador de la regla, política o plan específico relacionado con su comentario, así como una referencia o cita específica asociada a cada comentario. Tenga en cuenta que todos los comentarios enviados al TDHCA se considerarán información pública.

DEPARTAMENTO DE VIVIENDA Y ASUNTOS COMUNITARIOS DE TEXAS

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Attachment 1: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.403 Single Audit Requirements

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.403 Single Audit Requirements. The purpose of the proposed repeal is to eliminate the outdated rule and replace it simultaneously with a new more germane rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: requirements relating to single audits.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand, limit, or repeal an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the proposed repeal and also requests information related to the cost, benefit, or effect of the proposed repeal, including any applicable data, research, or analysis from any person required to comply with the repeal or any other interested person. The public comment period will be held November 21, 2025 to December 21, 2025, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, December 21, 2025.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the repeal affects no other code, article, or statute.

Subchapter D, Uniform Guidance for Recipients of Federal and State Funds
§1.403. Single Audit Requirements

Attachment 2: Preamble, including required analysis, for proposed new §1.403 Single Audit Requirements

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.403 Single Audit Requirements. The purpose of the new section is to provide greater clarity in relation to the findings that may be identified in a single audit that would warrant the Department to not fund, or to stop funding, a given contract.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to updates to existing requirements for recipients of Department funds.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section is not creating a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand, limit, or repeal an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be a clearer rule relating to when single audit findings are significant enough to warrant not funding, or stopping funding, a contract. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the section does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the proposed new rule and also requests information related to the cost, benefit, or effect of the proposed new rule, including any applicable data, research, or analysis from any person required to comply with the rule or any other interested person. The public comment period will be held November 21, 2025 to December 21, 2025, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, December 21, 2025.

STATUTORY AUTHORITY. The new section is proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the new section affects no other code, article, or statute.

§1.403 Single Audit Requirements

(a) For this section, the word Subrecipient also includes Multifamily Development Owners who have applied for or received Direct Loan Funds, grants or 811 PRA funds from the Department who are or have an Affiliate that is required to submit a Single Audit, i.e. units of government, nonprofit organizations.

(b) Procurement of a Single Auditor. A Subrecipient or Affiliate must procure their single auditor in the following manner unless subject to a different requirement in the Local Government Code:

(1) Competitive Proposal procedures whereby competitors' qualifications are evaluated and a contract awarded to the most qualified competitor. Proposals should be advertised broadly, which may include going outside the entity's service area, and solicited from an adequate number (usually two or more) of qualified sources. Procurements must be conducted in a manner that prohibits the use of in-state or local geographical preferences in the evaluation of bids or proposals;

(2) A Subrecipient may not use the sealed bid method for procurement of the Single Auditor. There is no requirement that the selected audit firm be geographically located near the Subrecipient. If a Subrecipient does not receive proposals from firms with appropriate experience or responses with a price that is not reasonable compared to the cost price analysis, the submissions must be rejected and procurement must be re-performed.

(c) A Subrecipient or Affiliate must confirm that it is contracting with an audit firm that is properly licensed to perform the Single Audit and is not on a limited scope status or under any other sanction, reprimand or violation with the Texas State Board of Public Accountancy. The Subrecipient must ensure that the Single Audit is performed in accordance with the limitations on the auditor's license.

(d) A Subrecipient is required to submit a Single Audit Certification form within two (2) months after the end of its fiscal year indicating the amount they expended in Federal and State funds during the fiscal year and the outstanding balance of any loans made with federal funds if there are continuing compliance requirements other than repayment of the loan.

(e) A Subrecipients that expend \$1,000,000 or more in an entity's fiscal year that starts on or after October 1, 2024 (or in the case of an entity's fiscal years starting before October 1, 2024, \$750,000 or more) in federal and/or state awards or have an outstanding loan balance associated with a federal or state resource of \$1,000,000 or \$750,000 (as applicable for the fiscal year) with continuing compliance requirements, or a combination thereof must have a Single Audit or program-specific audit conducted. If the Subrecipient's Single Audit is required by 2 CFR 200, subpart F, the report must be submitted to the Federal Audit Clearinghouse the earlier of 30 calendar days after receipt of the auditor's report or nine (9) months after the end of its respective fiscal year. If a Single Audit is required but not under 2 CFR Part 200, subpart F, the report must be submitted to the Department the earlier of 30 calendar days after receipt of the auditor's report or nine months after the end of its respective fiscal year. If the deadline is on a Saturday, Sunday, federal holiday (for a Single Audit required to be submitted to the Federal Audit Clearinghouse), or a state holiday (for a Single Audit required to be submitted to the Department), the deadline is the next business day.

(f) ~~A Subrecipients are~~ is required to submit a notification to the Department within five business days of submission to the Federal Audit Clearinghouse. Along with the notice, the Subrecipient must indicate if the auditor issued a management letter. If a management letter was issued by the auditor, a copy must be sent to the Department.

(g) The Department will review the Single Audit and issue a management decision letter for audit findings pertaining to the Federal or State award provided to the Subrecipient from the Department. If the Single Audit results in disallowed costs, those amounts must be repaid or an acceptable repayment plan must be entered into with the Department in accordance with 10 TAC §1.21, Action by Department if Outstanding Balances Exist.

(h) In evaluating a Single Audit, the Department will consider both audit findings and management responses in its review. The Department will notify Subrecipients and Affiliates (if applicable) of any Deficiencies or Findings from within the Single Audit for which the Department requires additional information or clarification and will provide a deadline by which that resolution must occur.

(i) ~~All findings identified in the most recent Single Audit will be reported to the Executive Director during the Previous Participation review process described in Subchapter C of this Chapter. The Subrecipient may submit written comments for consideration within five business days of the Department's management decision letter.~~

(j) If the Subrecipient disagrees with the auditors finding(s), and the issue is related to administration of one of the Department's programs, an appeal process is available to provide an opportunity for the auditee to explain its disagreement to the Department. This is not an appeal of audit findings themselves. The Subrecipient may submit a letter of appeal and documentation to support the appeal. The Department will take the documentation and written appeal into consideration prior to issuing a management decision letter. If the Subrecipient does not disagree with the auditor's finding, no appeal to the Department is available.

(k) In accordance with 2 CFR Part 200 and the State of Texas Single Audit Circular §225, with the exception of nondiscretionary CSBG funds except as otherwise required by federal laws or regulations, the Department may suspend and cease payments under all active Contracts, may elect not to recommend an award to the Board, may refrain from executing a reservation agreement or associated commitment of funds under a reservation agreement, or may refrain from executing a new Contract for any Board awarded contracts if any of the issues identified in paragraphs (1) through (3) of this section occur. The Department may also use its discretion to withhold a contract or funding associated with the Single Audit based on the type of Department program for which the Subrecipient is applying. Multifamily Development Owners that are applying for or have received an award for Multifamily Direct Loans will be evaluated against the criteria in this subsection for consideration or reconsideration only before loan closing.

~~(1) until the Single Audit is not received in accordance with the submission requirements detailed in subsection (e) and (f) of this section; In addition, the Department may elect not to renew an entity in accordance with §1.411 of this Chapter (relating to Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code), or not amend or enter into a new Contract with a Subrecipient~~

(2) until receipt of the required Single Audit Certification form or the submission requirements detailed in subsection (de) of this section is not received; or-

(3) if any of the following issues have been identified:

(A) in the most recent Single Audit:

(i) the Single Audit identifies the Subrecipient as a 'going concern';

(ii) the Single Audit identifies that the Subrecipient has systemic inadequate fiscal controls or ineffective financial processes;

(iii) the Single Audit identifies one or more material weaknesses that relate to the responsibilities associated with the program to be funded;

(iv) the Single Audit identifies a combination of weaknesses and deficiencies that when taken together reflect a high risk for noncompliant use of state or federal funds; or

(v) the Single Audit has received a Modified, Adverse or Disclaimed determination by the auditor;

(B) in at least two of the last three Single Audits for which the findings have not been corrected:

(i) the Single Audits identify inaccurate reporting specific to Department funded programs;

(ii) the Single Audits identify questioned costs related to Department funded programs;

(iii) the Single Audits identify questioned costs relating to cross-cutting administrative or operational expenses such as cost allocation, procurement, or payroll;

(iv) the Single Audits identify that there is inadequate separation of duties; or

(v) the Single Audits identify a combination of weaknesses and deficiencies that when taken together reflect a high risk for noncompliant use of state or federal funds.

(l) In accordance with Subchapter C of this Chapter (relating to Previous Participation Reviews), if a Subrecipient applies for funding or an award from the Department, findings noted in the Single Audit and the failure to timely submit a Single Audit Certification Form or Single Audit will be reported to the Executive Director.