

**CHAPTER 5****AUDITS****Authority**

N.J.S.A. 34:1-20 and 34:1A-3(e); 31 U.S.C. §§ 7500 et seq.; and 29 C.F.R. 96.501 et seq.

**Source and Effective Date**

R.2004 d.17, effective December 11, 2003.  
See: 35 N.J.R. 4441(a), 36 N.J.R. 196(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 5, Audits, expires on June 9, 2009. See: 41 N.J.R. 369(a).

**Chapter Historical Note**

Chapter 5, Audits, was adopted as R.1988 d.452, effective September 19, 1988. See: 20 N.J.R. 1520(a), 20 N.J.R. 2390(a). Pursuant to Executive Order No. 66(1978), Chapter 5 expired on September 19, 1993.

Chapter 5, Audits, was adopted as new rules by R.1993 d.511, effective October 18, 1993. See: 25 N.J.R. 3417(a), 25 N.J.R. 4748(a).

Pursuant to Executive Order No. 66(1978), Chapter 5, Audits, was readopted as R.1998 d.496, effective September 15, 1998. See: 35 N.J.R. 2832(a), 35 N.J.R. 3657(a).

Chapter 5, Audits, was readopted as R.2004 d.17, effective December 11, 2003. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. AUDIT RESOLUTION PROCEDURES****12:5-1.1 Purpose and scope**

This subchapter sets forth procedures for the resolution of audit findings, including, but not limited to, questioned costs and administrative deficiencies, identified as a result of the audit of Federal and/or State grants, contracts and other agreements awarded by or on behalf of the New Jersey Department of Labor.

Amended by R.1998 d.496, effective October 5, 1998.  
See: 30 N.J.R. 2832(a), 30 N.J.R. 3657(a).

Inserted "and/or State" preceding "grants".

**Case Notes**

Expression of a desire to leave in a moment when claimant was upset was not a voluntary leaving of work. Matter of M.Z.S., 93 N.J.A.R.2d (UCC) 11.

**12:5-1.2 Definitions**

The following terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Director" means the Director, Division of Accounting, New Jersey Department of Labor.

"Final audit report" means an audit report received from the Office of Inspector General, United States Department of Labor, New York Regional Office, an audit report issued by the New Jersey Department of Labor or an audit report that has cleared a desk review by the New Jersey Department of Labor and for which no deficiencies on the auditor's part have been noted which could require correction or clarification.

"Grantee/contractor/subrecipient" means any person or government department, agency or establishment (private for profit/non-profit) that receives Federal and/or State financial assistance to carry out a program through a State or local government but does not include an individual who is a beneficiary of such a program.

Amended by R.1998 d.496, effective October 5, 1998.  
See: 30 N.J.R. 2832(a), 30 N.J.R. 3657(a).

Deleted "Controller" and added "Director"; and in "Grantee/contractor/subrecipient", inserted "and/or State" preceding "financial".

**12:5-1.3 Audit resolution procedures**

(a) Upon receipt of a final audit report, the Controller shall promptly review the audit and issue to the grantee/contractor/subrecipient, within 60 days of receipt of the final audit report, a written determination setting forth audit disallowances and/or proposed sanctions.

(b) If a grantee/contractor/subrecipient disagrees with the initial determination of the Director, the grantee/contractor/subrecipient may submit to the Director, within 30 days of the receipt of the initial determination, a written request for an informal review.

1. Each grantee/contractor/subrecipient who is requesting an informal review shall also submit any data and arguments that support the grantee's/contractor's/subrecipient's position within 30 days of the request for an informal review.

2. If a grantee/contractor/subrecipient does not request an informal review within the time frame set forth in this subsection, the initial determination of the Director may become the final determination.

(c) The Director shall issue a written final determination in the matter to the grantee/contractor/subrecipient no later than 180 days after the final audit report was received. The final determination shall:

1. Indicate that efforts to informally resolve matters contained in the initial determination have either been successful or unsuccessful;

2. List those matters upon which the parties continue to disagree;

3. List any modifications to the factual findings and conclusions set forth in the initial determination; and

4. List any sanctions and required corrective actions; and set forth the appeal rights.

(d) If the grantee/contractor/subrecipient disagrees with the final determination of the Director, the grantee/contractor/subrecipient may submit to the Director within 10 days from the date of receipt of the final determination, a written request

for a formal hearing to be held in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Any failure on the part of the Director to issue determinations within the time frames set forth in this subchapter will not relieve the grantee/contractor/subrecipient from liability for any audit disallowances and/or sanctions.

Amended by R.1998 d.496, effective October 5, 1998.  
See: 30 N.J.R. 2832(a), 30 N.J.R. 3657(a).

Substituted "Director" for "Controller" throughout.  
Amended by R.2004 d.17, effective January 5, 2004.  
See: 35 N.J.R. 4441(a), 36 N.J.R. 196(a).

Substituted "Director" for "Controller" throughout.