



OFFICE OF THE
STATE AUDITOR

**Reporting Requirements for Nongovernmental Nonprofit Organizations (NGOs)
That Receive Federal Pass-Through, State, or Local Government Money
(Not applicable to NGOs that are charter schools)**

Definitions

“Federal pass-through money” means federal money received by the state or a political subdivision and passed through to an NGO through a subaward or contract. “Federal pass-through money” does NOT include federal money received by an NGO as payment for goods or services purchased by the state or political subdivision from the NGO.

“State money” means any money that is owned, held, or administered by a state agency and derived from state fee or tax revenues, including funds awarded directly to the NGO by the state entity or appropriated to a state entity to distribute to an NGO. “State money” does NOT include money to an NGO for the purchase of goods or services based on a contract between a state entity and an NGO that is subject to the state procurement process, nor does it include donations/contributions received by a State entity and passed through to an NGO.

“Local money” means money that is owned, held, or administered by a political subdivision of the state that is derived from fee or tax revenues. “Local money” does NOT include money received by an NGO as payment for goods and services purchased from the NGO or contributions/donations received by the political subdivision.

NGO Reporting Requirements

- An NGO that receives state money or federal pass-through money *from a state agency* must enter into a written agreement with that state agency in which the NGO agrees to disclose to the state agency **annually** whether the NGO received or spent at least \$25,000 in combined federal pass-through, state, and local money in both 1) the previous year, and 2) the year in which the federal pass-through or state money is received.
- An NGO that receives or spends at least \$25,000 in combined federal pass-through, state, and local money is required to submit the following reports **annually** to the Office of the Utah State Auditor at reporting.auditor.utah.gov. (If your nonprofit is not located in the dropdown menu for nonprofits, please contact Brooke Russell at brookerussell@utah.gov 801-538-1025.) These reports are due within **6 months** of the NGO’s fiscal year end.

TOTAL COMBINED AMOUNT OF FEDERAL PASS-THROUGH, STATE, AND LOCAL MONEY	TYPE OF REPORT REQUIRED (DUE WITHIN 6 MONTHS OF NGO’S FISCAL YEAR END)
More than \$1,000,000	An audit in accordance with Generally Accepted Auditing Standards (GAAS)
Between \$350,000 and \$1,000,000	A review conducted by an independent certified public accountant
Between \$100,000 and \$350,000	A compilation of its accounts by an independent certified public accountant
Between \$25,000 and \$100,000	A copy of Form 990 or a financial survey form (https://auditor.utah.gov/local-government-2/publications/forms-for-local-governments/ “Small Financial Survey (Less than \$350,000)”)

Note: An audit in accordance with GAAS will satisfy any of the reporting requirements listed above.

Question and Answers:

Question: If an NGO goes through a competitive application process, are they exempt from reporting requirements?

Answer: No. Even if an NGO goes through a competitive application process, the result is still a grant awarded to the NGO and would qualify them for reporting to the Office of the State Auditor. A competitive application process is NOT the same as going through the “state procurement process.”

Question: Are the reporting requirements based on the amount awarded during the fiscal year, or the actual amounts received and/or spent during the fiscal year?

Answer: The reporting requirements (i.e. audit, review, compilation, Form 990) are based on the actual combined amount of federal pass-through, state, and local money *received or spent during the NGO's fiscal year*, regardless of when the money was awarded.

Question: What are NGOs required to report to an awarding state agency on an annual basis?

Answer: NGOs that receive money from a state agency (either federal pass-through or state money) are required to report whether they did or will receive or spend between \$25,000 and \$100,000, between \$100,000 and \$350,000, between \$350,000 and \$1,000,000 or greater than \$1,000,000 in combined federal pass-through, state, or local money for both:

- 1) The previous fiscal year of the nonprofit organization; **and**
- 2) The fiscal year in which the money is issued.

Question: What reports are required of NGOs that receive or spend between \$25,000 and \$100,000 in combined federal pass-through, state, and local money in a given fiscal year?

Answer: The law allows the state auditor to determine the reporting format for nonprofits that receive or spend less than \$100,000. As such, we have determined that we will accept the NGO's Form 990 as their fiscal report. NGOs that fall within this range may also use the “Small Financial Survey (Less than \$350,000)” found at auditor.utah.gov.

Question: What is required of an NGO that receives or spends less than \$25,000 in combined federal pass-through, state, and local money in a given fiscal year, even though they may have been awarded more than \$25,000?

Answer: An NGO is only required to report to the Office of the State Auditor if it actually *receives or spends* an excess of \$25,000 in combined federal pass-through, state, and local money during their fiscal year. If an NGO receives or spends less than \$25,000, they are not required to report to our Office, even if they may have been *awarded* more than \$25,000 during the year.

Question: Do these requirements apply to charter schools that are nonprofits?

Answer: No. The law specifically excludes charter schools that are nonprofits from being subject to these requirements (see *Utah Code 51-2a-201.5(5)*). Charter schools that are nonprofits are subject, instead, to *Utah Code 53G-5-404*.

Question: How can an NGO determine whether they are a subrecipient (of award funds) or a contractor, to ascertain whether they are required to follow reporting requirements?

Answer: Procurement contracts are not subject to reporting requirements. A procurement contract occurs when the principal purpose of the contract is for the State to acquire property or services for the direct use of the State, but not to carry out a program for a public purpose. Further, the contractor provides similar goods or services to purchasers other than state entities.

The following table is based upon guidance given in the Uniform Guidance for Federal Awards and provides additional considerations. **We encourage NGOs to work with their awarding agencies to identify whether they are a subrecipient or a contractor since there are a multitude of situations and every case is different.**

Guidelines for Subrecipient/Contractor Determination	
Subrecipient	Contractor
<ul style="list-style-type: none"> • Creates an "assistance" relationship. • Determines who is eligible to receive assistance. • Has its performance measured in relation to whether objectives of the assistance program are met. • Has responsibility for programmatic decision making. • Is responsible for adherence to applicable program requirements specified in the award documentation. • In accordance with its agreement, uses the funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the awarding agency. 	<ul style="list-style-type: none"> • Purpose is to obtain goods and services for the contracting entity's own use and creates a procurement relationship. • Provides the goods and services within normal business operations. • Provides similar goods or services to many different purchasers. • Normally operates in a competitive environment. • Provides goods or services that are ancillary to the operation of the program. • Is not subject to compliance requirements of the program as a result of the agreement, though similar requirements may apply for other reasons.

Legal Requirements – *Utah Code 51-2a-201.5*

For questions – Contact Calvin Bergmann at 801-834-5413 or cbergmann@utah.gov.

**DECISION TREE:
DETERMINING WHETHER AN NGO IS REQUIRED
TO REPORT TO THE OFFICE OF THE UTAH STATE AUDITOR**

1. Did the NGO receive in excess of \$25,000 in federal pass-through, state, and local money during a given fiscal year?

Yes – Continue ↗

No – Stop! The NGO is not required to submit reports to the Office of the Utah State Auditor (OSA).

2. Is the NGO considered a subrecipient or grantee by the awarding agency?

Yes – Continue ↗

No – Stop! The NGO is not required to submit reports to the Office of the Utah State Auditor (OSA).

3. Are total annual receipt or expense of federal pass-through, state and local money less than \$1 million?

Yes – Continue ↗

No – Stop! An audit in accordance with Generally Accepted Auditing Standards (GAAS) is required to be performed and submitted to the OSA.*

4. Are total annual receipt or expense of federal pass-through, state and local money less than \$350,000?

Yes – Continue ↗

No – Stop! A review conducted by an independent certified public accountant is required to be performed and submitted to the OSA.*

5. Are total annual receipt or expense of federal pass-through, state and local money less than \$100,000?

Yes – A copy of Form 990, Form 990 EZ, or a financial report form (located at <https://auditor.utah.gov/local-government-2/publications/forms-for-local-governments/> “Small Financial Survey (less than \$350,000) is required to be completed and submitted to the OSA.*

No – Stop! A compilation of its accounts by an independent certified public accountant is required to be completed and submitted to the OSA.*

* An entity may decide to have a financial audit even if one is not required as outlined above. If an audit is performed, the audit would satisfy any of the reporting requirements listed above.

A complete list of the current reporting requirements can be found on the osa website at: auditor.utah.gov.

NOTE: PLEASE SUBMIT REQUIRED REPORTS AT reporting.auditor.utah.gov. ALL REQUIRED REPORTS ARE DUE WITHIN 6 MONTHS OF THE NGO’S FISCAL YEAR END.