

## Sample Right-to-Audit Clause

Below is a sample right to audit clause that organizations may use to develop their own clause, or to update an existing clause. The sample language, however, is not intended to represent legal advice. Consult with appropriate legal counsel before utilizing this information.

In the sample right-to-audit clause below, the term “Contractor” is used to describe signatories to contracts, grants, and agreements with the [Company] and must be changed to reflect the relationship with the Company (e.g., contractor, licensee, supplier, vendor, consultant, etc.).

### **Right to Audit.**

[Contractor] shall establish and maintain a reasonable accounting system that enables [Company] to readily identify [Contractor]’s assets, expenses, costs of goods, and use of funds. [Company] and its authorized representatives shall have the right to audit, to examine, and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this [Contract or Agreement] kept by or under the control of the [Contractor], including, but not limited to those kept by the [Contractor], its employees, agents, assigns, successors, and subcontractors. Such records shall include, but not be limited to, accounting records, written policies and procedures; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; backcharge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence.

[Contractor] shall, at all times during the term of this [Contract or Agreement] and for a period of ten years after the completion of this [Contract or Agreement], maintain such records, together with such supporting or underlying documents and materials. The [Contractor] shall at any time requested by [Company], whether during or after completion of this [Contract or Agreement], and at [Contractor]’s own expense make such records available for inspection and audit (including copies and extracts of records as required) by [Company]. Such records shall be made available to [Company] during normal business hours at the [Contractor]’s office or place of business and [subject to a three day written notice/without prior notice]. In the event that no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for [Company].

[Contractor] shall ensure [Company] has these rights with [Contractor]'s employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the [Contractor] and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the [Contractor]'s obligations to [Company].

Costs of any audits conducted under the authority of this right to audit and not addressed elsewhere will be borne by [Company] unless certain exemption criteria are met. If the audit identifies overpricing or overcharges (of any nature) by the [Contractor] to [Company] in excess of one-half of one percent (.5%) of the total contract billings, the [Contractor] shall reimburse [Company] for the total costs of the audit. If the audit discovers substantive findings related to fraud, misrepresentation, or non-performance, [Company] may recoup the costs of the audit work from the [Contractor]. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the [Contractor]'s invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of [Company]'s findings to [Contractor].

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