

California State Controller's Office
Proposed Regulatory Action: Regulations Governing the Activities of Third-Party
Auditors Who Are Hired by the Controller
Second Modified Regulation Text

Title 2. Administration
Division 2. Financial Operations
Chapter 2. State Controller
Subchapter 8. Unclaimed Property Law

The California Controller is proposing to add the following regulations to Article 6 of the above-referenced portion of the California Code of Regulations. Originally proposed changes are indicated in plain text for additions. Changes proposed in the First Modified Regulation Text are indicated in single underline for additions and ~~single strikethrough~~ for deletions. Newly proposed changes in this Second Modified Regulation Text are indicated in double underline for additions and ~~double strikethrough~~ for deletions.

Article 6~~2~~. Regulations Governing the Activities of Third-Party Auditors Who Are Hired by the Controller

§ ~~4200~~ 1180.011. Statement of Purpose.

This article governs the activities of third-party auditors conducting examinations under California's Unclaimed Property ~~Program~~ Law (California Code of Civil Procedure Sections 1500 et seq.) ~~at~~ that are hired by the State Controller's Office, Division of Audits. ~~This article is intended to:~~

1. ~~Ensure that the examinations by a third party auditor are conducted objectively and impartially.~~
2. ~~Ensure that the examinations are completed promptly and without undue burden to the holders.~~
3. ~~Ensure that strict confidentiality is maintained for records obtained from the state and the holders.~~

~~Note: Authority cited: Code of Civil Procedure Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure, Section 1571~~

§ ~~4201~~ 1180.012. Authority to Conduct Unclaimed Property Examinations.

The Controller is authorized, at reasonable times and upon reasonable notice, to examine the records of any person if the Controller has reason to believe that the person is a holder who has failed to report property that should have been reported pursuant to Code of Civil Procedure Sections 1500 et seq. Reasons to believe that a person has failed to report property include, but are not limited to: (a) Inconsistencies, omissions, or lack of detail in a holder's past reports; (b) Inconsistencies or differences between a holder's past reports and similarly-sized holders or holders in a similar line of business; (c) A holders' history of reporting or history of compliance or noncompliance; or (d) Available public data regarding the holder, including without limitation, annual company reports, and press materials.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1202~~ 1180.013. Adherence to Contract.

A third-party auditor shall comply with all terms and conditions specified in any contract between a third-party auditor and the State Controller's Office. ~~Any failure by a third-party auditor to adhere to the terms of its contract shall not give rise to any claims or rights on the part of the auditee or any party other than the Office of the Controller.~~

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1203~~ 1180.014. Terms of Compensation.

A contract with a third-party auditor ~~may~~ shall specify that the auditor is to be compensated on a time and materials basis, as a percentage of the amount recovered by the third-party auditor, or in any combination thereof. However, any compensation to a third-party auditor shall not be withheld from any recovery obtained by reason of an ~~audit~~ unclaimed property examination.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1204~~ 1180.015. Principles of Examination Conducted by Third-Party Auditors.

A third-party auditor conducting examinations under California's Unclaimed Property ~~Program~~ Law (California Code of Civil Procedure Sections 1500 et seq.) ~~at~~ that are hired by the State Controller's Office, Division of Audits, shall adhere to the general principles of examination set forth in §§ ~~1205~~ 1180.016 through ~~1214~~ 1180.025 of this Article.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1205~~ 1180.016. Independence.

In all matters relating to the unclaimed property examination, the third-party auditor or auditors must maintain an independence in mental attitude ~~is to be maintained by the auditor or auditors.~~

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1206~~ 1180.017. Training and Expertise.

A third-party auditor shall possess sufficient training and experience to adequately perform the unclaimed property examination.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1207~~ 1180.018. Conflict of Interest.

(a) A third-party auditor shall not participate in unclaimed property examinations in which such

participation could be construed as a conflict of interest. An example of a conflict of interest would be a third-party auditor entering into an agreement that contains a provision that is adverse to the interest of the State of California, or a third-party auditor having an existing obligation to a holder that is adverse to the interest of the State of California.

(b) From time to time, a third-party auditor may solicit a holder for preparation of a voluntary report of the holder's unclaimed property. Such an engagement may be one wherein a third-party auditor provides expertise, guidance, and counseling to the holder with respect to the submission of the unclaimed property voluntary report. This is a clear example of a conflict of interest. However, such a solicitation does not constitute a conflict of interest providing provided that the a third-party auditor was representing the State's interest in the preparation of the voluntary report, and:

(1) Representing the State's interest in the preparation of the voluntary report;

~~a~~(2) Did not receive any fees, payments, or payments-in-kind from the holder for its services; and

~~b~~(3) Did not obtain any holder information that cannot be disclosed to the State of California because it is deemed confidential.

Note: Authority cited: Code of Civil Procedure Section 1571(a), Code of Civil Procedure. Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1208~~ 1180.019. Confidentiality.

A third-party auditor shall maintain strict confidentiality of any records or documents gathered during the unclaimed property examination. ~~The required strict confidentiality shall be maintained in as follows: a.~~ A third-party auditor shall sign a confidentiality agreement, ~~akin to the agreement contained in section 1237 herein that complies with either sections 1180.047 or and 1180.0468 of this set of regulations Article,~~ to preserve the integrity of state security and confidentiality. ~~The~~ A third-party auditor shall sign a confidentiality agreement to preserve the holder's interest and the reasonable expectation of privacy of the owner's holder's interest, and. A third-party auditor shall maintain a file of each confidentiality agreement and provide such statements to the State upon request. Such files must be maintained throughout the duration of the audit unclaimed property examination and shall not be destroyed until the audit unclaimed property examination has been completed.

Note: Authority cited: Code of Civil Procedure Section 1571(a), Code of Civil Procedure. Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1209~~ 1180.020. Communications with Holder.

A third-party auditor shall fully explain to the holder:

(a) The purpose, scope, and objectives of the examination;

(b) The general approach of the examination and the procedures to be applied;

(c) Circumstances in which estimation techniques may be used, along with a description of the methodology that may be employed; and

~~(d)~~ The holder's right to appeal the results of the examination.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~ Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~4210~~ 1180.021. Prior Written Authorization Required.

A third-party auditor shall not engage in any unclaimed property examinations on behalf of California without written authorization from the State Controller's Office. A third-party auditor shall provide the holder with a copy of the State Controller's Office letter authorizing the third-party auditor to perform the examination on the Controller's behalf.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~ Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ 1180.022. Subcontracting and Affiliated Companies.

A third-party auditor shall not subcontract any work without prior written authorization from the State Controller's Office. A third-party auditor is responsible for ensuring that any affiliated companies and any sub-contractors that are used during the unclaimed property examinations possess sufficient training and experience to adequately perform the unclaimed property examination and fully comply with the regulations in this Article. ~~these and all other policies and procedures governing its conduct.~~

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~ Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~4212~~ 1180.023. Preparation of Working Papers.

A third-party auditor shall properly document its unclaimed property examination, and make the working papers supporting ~~their~~ its conclusions available on demand for review by the State Controller's Office, the California State Auditor, and the Attorney General's Office. Such working papers ~~will~~ shall include planning information and all related calculations, statistical analyses, and summarizations.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~ Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~4213~~ 1180.024. Availability of Working Papers.

~~Upon~~ If requested, a third-party auditor shall ~~promptly~~ provide the holder with relevant copies of working papers of ~~completed audit~~ unclaimed property examinations supporting any calculation made of unclaimed property escheatable to the State of California, and notify the State Controller's Office, Division of Audits, of the request within 120 days.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~ Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~4214~~ 1180.025. Retention of Working Papers.

A third-party auditor shall maintain working papers for a minimum of five years following the completion of the assignment, the escheatment of abandoned property, the resolution of any

administrative appeal, or finality of judgment in any litigation, whichever is later.

Note: Authority cited: Code of Civil Procedure Section 1571(a), Code of Civil Procedure. Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ 1215 1180.026. Opening Conference.

(a) The opening conference provides the initial forum for a third-party auditor and the holder to discuss the unclaimed property examination objectives, scope, methodologies, document requests, use of testing and estimation if necessary, the examination closure process, and the informal appeals process. A third-party auditor may exercise its discretion to determine when and how to utilize certain examination processes, including the determination of the sequencing of examination phases, site visits, and response time frames. A third-party auditor may modify such examination processes based upon the circumstances of examination.

(b) Prior to the opening conference, a third-party auditor shall provide the holder with:

(1) ~~An approved form of the confidentiality agreement that complies with either, (an approved sample of such an agreement is included in these regulations see Section 1237 1180.047 or Section 1180.048 of this Article);~~

(2) ~~A copy of these the Regulations in Sections 1180.049 through 1180.058 of a Article 6 in this Subchapter 8 in chapter 2 in division 2 in title 2, a copy of the State Controller's Regulations For Appealing an Examination of Unclaimed Property Regulations article 6 in subchapter 8 in chapter 2 in division 2 in title 2 section 1180.49 et. et., and~~

(3) ~~The Unclaimed Property Informal Audit Review Conference Appeal Hearing Request form incorporated into Section 1180.051 of Article 8 of this Subchapter Regulations article 6 in subchapter 8 in chapter 2 in division 2 in title 2 section 1180.51, and a copy of this Article. the Unclaimed Property Law and Regulations Regulations article 6 in subchapter 8 in chapter 2 in division 2 in title 2 section 1180.11 et. et.~~

~~The State Controller's Regulations for Appealing an Examination of Unclaimed Property, and the Unclaimed Property Appeal Hearing Request form, and the Unclaimed Property Law and Regulations, are incorporated herein by reference.~~

Note: Authority cited: Code of Civil Procedure Section 1571(a), Code of Civil Procedure. Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ 1216 1180.027. Topics Covered in Opening Conference.

During the opening conference, a third-party auditor shall:

(a) Identify the time period to be covered by the unclaimed property examination and describe the general examination methods to be employed, including sampling and estimation;

(b) Identify, in writing, the State Controller's Office examination liaison to whom the third-party auditor is accountable, including his or her full name, title, address, email address, telephone and facsimile number, and advise the holder that it is free to discuss the examination directly with the liaison at any time regarding allegations of misconduct, unethical behavior, or potential disagreements relating to legal authority;

(c) Identify, in writing, each and every third-party auditor, third-party auditor

representative, employee, and agent who will take part in the unclaimed property examination;

(d) Explain the holder's appeal rights ~~and~~, the appeal procedures, and the third-party auditor's responsibility during the appeal process;

(e) Fully disclose to the holder its fee arrangement with the State Controller's Office;

(f) Explain and describe the phases of the examination, which typically include the phases listed in Sections 1180.028 through 1180.032 of this Article; and ~~below listed phases.~~

(g) Explain and describe the types of information and data that the third-party auditor may be requesting and that the third-party auditor may request that the data and information be produced electronically.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1217~~ 1180.028. Phase I of Examination: Basic Corporate Information Gathering.

(a) The objective of Phase I of an unclaimed property examination is to determine the particular entities, business units, and third-party accounts to be examined. This phase commences with a telephone conference call or virtual meeting (the opening conference) between the ~~a~~ third-party auditor and the holder, at which time the ~~a~~ third-party auditor requests basic corporate and unclaimed property data and information. The ~~A~~ third-party auditor may request that the data and information be produced electronically. The holder shall respond to the data and information requests either within 360 days or an agreed-upon time period.

(b) ~~The~~ third-party auditor shall inform the holder that if the holder has fully reliable records for the examination period, there is no need for estimation techniques. The holder ~~should~~ will ~~shall~~ also be informed through receipt of a copy of these regulations, that if it (i) wants to question the accuracy of its own records or (ii) does not have records for the entire period, then a sampling and extrapolation may be performed after approval from the ~~SCO~~ State Controller's Office. The ~~S-C-O~~ State Controller's Office will shall weigh the information available provided to it and allow or disallow sampling and extrapolation based on what method is most effective to adequately capture the unreported unclaimed property. The ~~A~~ third-party auditor shall advise the holder of the parameters of the sampling technique and try to reach an agreement with the holder as to the integrity thereof. Failure to reach such an agreement, however, ~~should~~ shall not halt the examination. If sampling techniques are used, the ~~A~~ third-party auditor shall inform the holder that if sampling techniques are used, the liability determined by the third-party auditor will shall represent a fair estimation only.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1218~~ 1180.029. Phase II of Examination: Devising the Examination Program.

(a) The objective of Phase II of an unclaimed property examination is

(1) ~~a) To~~ identify accounts which may contain abandoned properties within the examination period;

(2) ~~b) To~~ understand policies and procedures related to accounting for and reporting abandoned property; and

(3) ~~e) To~~ determine the amount of outstanding liability related to the stale-dated and dormant amounts contained in the holder's ~~presently~~ presently-maintained internal accounting system.

(b) Phase II commences with a written data and information request from ~~at~~ the third-party auditors to the holder. ~~A~~ The third-party auditor may request that the data and information be produced electronically. The holder shall respond to the third-party auditors's requests within 60 days or an otherwise agreed-upon time period.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1219~~ 1180.030. Phase III of Examination: Examination of Accounts.

The objective of Phase III of an unclaimed property examination is to analyze ~~a~~ the holder's accounts and identify abandoned property. This phase commences with a written data and information request from the third-party auditors to the holder, and may include a mutually agreed-upon date for a site or virtual visit. ~~A~~ The third-party auditor may request that the data and information be produced electronically. If a site or virtual visit is requested, the ~~site or virtual~~ visit shall take place within 30 days after the data and information requested is received. During the ~~site or virtual~~ visit, ~~a~~ the third-party auditor analyzes the holder's books and records, and if necessary, selects items for testing. The holder shall produce documentation supporting its accounting for the items selected within 60 days or an otherwise agreed-upon time period. ~~A~~ The third-party auditor then may make a second site or virtual visit to the holder at an agreed-upon date to review and analyze the documents produced.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1220~~ 1180.031. Phase IV of Examination: Detailed Testing Covering Entire Examination Period.

(a) The objective of Phase IV of an unclaimed property examination is to conduct testing, as necessary, to determine the overall escheatable property due and owing for the entire period under examination. As discussed in Phase I, sampling and extrapolation may be performed after approval from the State Controller's Office. If, due to record retention policy constraints, less than the entire examination period will be examined, the objective of this Phase is to determine the base period to be utilized; calculate total escheatable property generated during the base period (i.e., amounts escheated, plus amounts suspended, plus amounts written off); extrapolate total escheatable property results from base period to entire period; then credit amounts actually escheated.

(b) This phase commences with discussions between ~~a~~ the third-party auditor and the holder regarding the design of the Phase IV examination program. ~~The design of the examination program is expected to take 30 to 45 days.~~ If a the third-party auditor determines that a site visit or virtual visit is needed, the third-party auditor and the holder shall decide upon a mutually

agreed-upon date for one or more site or virtual visits to perform testing procedures and select samples for testing. Alternatively, ~~at the~~ third-party auditor may request that samples be produced electronically for testing. The holder shall produce documentation supporting its accounting for the items selected within 60 days or an otherwise agreed-upon time period. If the holder believes it has been responsive to ~~at the~~ third-party auditor's requests, but the third-party auditor disagrees, the holder has an additional 30 days, or an otherwise agreed-upon time period, to provide additional documentation to the third-party auditor to support its position.

(c) Because many holders have multiple divisions, subsidiaries, and affiliates, and generate various types of property that require examination, separate analyses and reports will be prepared, so that the ~~SCO State Controller's Office~~ may receive property as amounts due are determined, and not wait for all areas to be completed.

Note: Authority cited: Code of Civil Procedure Section 1571(a), Code of Civil Procedure. Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

~~§ 1221~~ 1180.032. Phase V of Examination.

The objective of Phase V of ~~the~~ an unclaimed property examination is to reach agreement with the holder on the amount of escheatable property due and owing. Phase V commences with the provision of ~~a draft report~~ the preliminary finding schedule(s) to the holder. The preliminary finding schedule is the list of escheatable properties, and its corresponding owners derived from the auditor's analysis from Phase III and Phase IV. The holder shall have 20 days to respond to the ~~draft preliminary findings and hold~~ discussions are held with the third-party auditor ~~the holder~~ to finalize the findings, ~~which are expected to occur within 15 days of the holder's initial response.~~ Promptly thereafter, the final examination report is issued in accordance with Section 1180.044. ~~A~~ The third-party auditor ~~will~~ shall prepare and submit to ~~SCO~~ the State Controller's Office unclaimed property Holder Notice Reports in accordance with the requirements of Code of Civil Procedure CCP section Section 1530 and Section 1174 of Article 5, and unclaimed property Holder Remit Reports with property remittance in accordance with the requirements of ~~CCP~~ Code of Civil Procedure sSection 1532 and Section 1174 of Article 5. A third-party auditor ~~will~~ shall instruct holders and/or their agents to relinquish to the third-party auditor, or the third-party auditor's custodian, property deemed owing in accordance with Code of Civil Procedure CCP sSection 1532.

Note: Authority cited: Code of Civil Procedure Section 1571(a), Code of Civil Procedure. Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

~~§ 1222~~ 1180.033. Extension of Examination Period.

The unclaimed property examination period may be extended to include any year subsequent to the years initially included if the examination is completed after additional report years have elapsed.

Note: Authority cited: Code of Civil Procedure Section 1571(a), Code of Civil Procedure. Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

~~§ 1223~~ 1180.034. Final Decision-Making Authority.

Although an unclaimed property examination may be conducted by a third-party auditor, the State Controller's Office at all times maintains final decision-making authority over the conduct

and conclusions of the examination.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~ Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1224~~ 1180.035. Explanation of Appeals Process.

~~A~~The third-party auditor shall explain to the holder the state appeal process and procedures. Further, ~~a~~the third-party auditor shall obtain from the holder written confirmation acknowledging its understanding of the state appeal process and procedures.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~ Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1225~~ 1180.036. Working Paper Requirements.

~~A~~The third-party auditor is required to prepare working papers that provide documentary evidence of the work performed in the unclaimed property examination. The working papers are a record that shall be understandable to other auditors many years later, whether or not the auditor preparing the working papers is available. Each working paper shall “stand alone” and include adequate cross-references. The format for individual working papers shall ~~contain the following information identified in~~ comply with Sections ~~1226-1230~~ 1180.037 through 1180.041 ~~herein~~ of this Article.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~ Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1226~~ 1180.037. Signing, Dating, and Paginating.

Each ~~lead~~ working paper must be initialed and dated by the preparer and the reviewer, and all pages must be numbered.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~ Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1227~~ 1180.038. Source, Purpose, Scope, Procedures, Findings and Conclusions.

Each working paper must include statements describing the source, purpose, scope, procedures, findings, and conclusions of an audit typically to provide documentary evidence of the auditor’s work performed. ~~appear on every working paper and must appear when such information is available to the auditor and necessary to understand the findings of an audit.~~ Occasionally, a working paper may require only statements describing the source and purpose, ~~are required,~~ particularly when documents are obtained for background information.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), ~~Code of Civil Procedure~~ Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1228~~ 1180.039. Indexing.

The essential elements of an indexing system are (i) standard prepared indexes and (ii) sequential numbering of all pages after the assignment is completed.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1229~~ 1180.040. Cross-Referencing.

The cross-referencing of page numbers shall be written in red.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1230~~ 1180.041. Legends and Tick Marks.

A legend shall be included on each working paper that adequately explains the unclaimed property examination audit procedures performed and represented by a particular tick mark. If several pages of information are to be tested, the tick mark legend shall be on or referenced on the first page of the working paper.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1231~~ 1180.042. Sampling Requirements.

The two possible approaches to sampling are non-statistical sampling and statistical sampling. Regardless of the sampling approach selected, ~~at~~ the third-party auditor must properly plan, perform, and evaluate the results of the sample in accordance with applicable professional standards.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1232~~ 1180.043. Cooperation Among the States.

During the opening conference, the third-party auditor shall notify the holder of any additional or unique state requirements. To the extent ~~at~~ the holder has an issue with the third-party auditor or the unclaimed property examination, ~~at~~ the third-party auditor is to confer with the first state that authorized the examination to assist in resolving the issue. To the extent possible, the examination ~~should~~ shall proceed while disputes are being resolved.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

§ ~~1233~~ 1180.044. Closure.

(a) ~~After~~ Within 120 days of the holder and the third-party auditor finalizing the findings in accordance with Section 1180.32, have agreed to the amount deliverable, a the third-party auditor ~~will~~ shall provide the holder and the SCO State Controller's Office with an examination report summarizing the procedures performed and the conclusions reached, including the amount of unclaimed property identified deliverable within 120 days of request by the holder following conclusion of the audit. The content and format of the report shall be in ~~the manner prescribed by the State and in~~ accordance with Section ~~1234(b)~~ 1180.044(b) ~~herein~~ of this Article. ~~A~~ The third-party auditor's working papers ~~will~~ shall be subject to SCO review by the State Controller's Office. The examination is closed when the third-party auditor delivers both

the unclaimed property and the final examination report to the State Controller's Office. The holder ~~will~~shall be notified of any interest or penalties assessed on delinquent property.

(b) The examination report ~~will~~shall specify: (1) the work performed; (2) the property types reviewed; (3) the methodology of any sampling technique used in conducting the examination; (4) each calculation showing the value of property determined to be due; and (5) the findings of the third-party auditor conducting the examination.

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

~~§ 1234. Third Party Auditor's Compliance with Regulations~~

~~The failure of a third party auditor to comply with a regulation shall neither invalidate nor impair an audit or otherwise give rise to rights or claims by an auditee, if at the conclusion of the audit the Controller determines that the conduct of the audit was fundamentally fair and that the conclusion reached by the third party auditor was reasonable.~~

~~§ 1235~~ 1180.046. Correspondence.

The examination report and any relevant correspondence shall be sent electronically to the State Controller's Office at SCOAUD-UCP3PC@sco.ca.gov.

~~Unclaimed Property Program at the State Controller's Office
Attn: Division of Audits,
Post Office Box 942850,
Sacramento, California 94250-5874~~

~~Inquiries should be directed to the Division of Audits' Unclaimed Property Program at (916) 324-8907.~~

Note: Authority cited: ~~Code of Civil Procedure~~ Section 1571(a), Code of Civil Procedure, Section 1571(e) Reference: Section 1571, Code of Civil Procedure.

~~§ 1236~~ 1180.047. Sample Confidentiality Agreement.

~~The third-party auditor and the holder shall execute a confidentiality agreement that complies with either (1) the sample approved confidentiality agreement contained in this Section or (2) Section 1180.048. The following template or an agreement complying with Section 1180.48 of these regulations constitutes a sample approved confidentiality agreement that should be executed by a third party auditor and the holder.~~

Confidentiality Agreement

[Date]

[Holder]

Dear

The third-party auditor, as agent for the States set forth on Annex A (the "States"; such term also including any additional States that may during the course of the Contractor's examination also

authorize the Contractor to act as its agent), has requested certain information from [Name of Holder] (the "Holder") in connection with its abandoned property examination of the Holder's books and records.

The Contractor shall treat as confidential and protect from disclosure to third parties, other than its own employees, agents, and representatives, and the States, all information that the Holder may furnish verbally and in writing to the Contractor or its agents, representatives, or employees in connection with its abandoned property examination; provided however, that this letter agreement shall not prohibit the Contractor from disclosing such information to (a) any person specifically approved by the Holder or (b) pursuant to or as required by law. The Contractor further agrees that it will not use any such information for any purpose other than the performance of such examination.

The information referred to in the preceding paragraph shall not include any information (i) previously known to the Contractor prior to the receipt of such information, (ii) subsequently acquired by the Contractor from a third party having an independent right to disclose such information, or (iii) that is now or later becomes publicly known through no fault of the Contractor.

Any failure or delay by the Holder in enforcing any provision of this letter agreement will not operate as a waiver of that provision, and the Holder will be entitled to injunctive relief, as well as all other remedies available at law or equity, if the Contractor breaches this letter agreement.

This letter agreement constitutes the entire agreement between us and may only be modified in writing. This letter agreement and all controversies arising from it shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its conflicts of law principles.

Sincerely,

[Contractor, Employee, Agent, and Contractor Representative]

AGREED TO:

(i) [HOLDER]

By: _____
Name:

Note: Authority cited: Section 1571, Code of Civil Procedure. Reference: Section 1571, Code of Civil Procedure.

§ 1180.048. Sample Confidentiality Agreement.

~~A~~ third-party auditor and an auditee may agree to use a confidentiality agreement other than the sample provided in Section 1180.047 of this Article. Any such confidentiality agreement must, at a minimum, provide the same level of confidentiality and protection as is provided in the agreement provided in Section 1180.047 of this Article.

Note: Authority cited: Section 1571, Code of Civil Procedure. Reference: Section 1571, Code of Civil Procedure.