

§244-C. Access to confidential records

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Audit working paper" means all documentary and other information acquired, prepared or maintained by the State Auditor during the conduct of an audit or investigation, including all intraagency and interagency communications relating to an audit or investigation and includes draft reports or any portion of a draft report. [PL 1997, c. 703, §1 (NEW).]

B. "Auditor" means the State Auditor or an agent of the State Auditor who is an employee of the Office of the State Auditor. [PL 2013, c. 16, §6 (AMD).]
[PL 2013, c. 16, §6 (AMD).]

2. Information available to the Auditor. Notwithstanding any state law relating to the confidentiality of information, all information in the files of any department, commission or agency of the State subject to an audit or investigation by the Auditor must be made available when necessary to the Auditor for performance of the Auditor's official duties.

A. Before beginning an audit or investigation that may require access to records containing confidential or privileged information, the Auditor shall consult with representatives of the department, commission or agency to discuss methods of identifying and protecting privileged or confidential information in those records. During that consultation, the department, commission or agency shall inform the Auditor of all standards and procedures set forth in department, commission or agency policies or agreements to protect information considered by the department, commission or agency to be confidential or privileged. The Auditor shall limit access to information that is privileged or confidential by appropriate methods, which may include examining records without copying or removing them from the department, commission or agency. [PL 1997, c. 703, §1 (NEW).]

B. In making information available to the Auditor, the department, commission or agency that is subject to the audit or investigation or that provides the information may remove information that identifies individuals or institutions to protect privileged or confidential information, provided the information necessary for the Auditor to fulfill the Auditor's official duties is disclosed to the Auditor. If names are removed, another unique identifier must be inserted to enable verification of audit results. [PL 1997, c. 703, §1 (NEW).]

C. Documentary or other information obtained by the Auditor during the course of an audit or investigation is privileged or confidential to the same extent under law that that information would be privileged or confidential in the possession of the department, commission or agency providing the information. Any privilege or statutory provision, including penalties, concerning the confidentiality or obligation not to disclose information in the possession of any department, commission or agency or their officers or employees applies equally to the Auditor. Privileged or confidential information obtained by the Auditor during the course of an audit or investigation may be disclosed only as provided by law and with the agreement of the department, commission or agency subject to the audit or investigation that provided the information. [PL 1997, c. 703, §1 (NEW).]

D. If the Auditor accesses information classified as privileged or confidential pursuant to department, commission or agency policy or procedures or by agreement, the Auditor shall comply with the department, commission or agency standards or procedures for handling that information. The Auditor may include in the audit working papers only such excerpts from information classified as confidential or privileged as may be necessary to complete the audit, provided the use does not infringe on department policies or procedures applicable to the original provision of information. [PL 1997, c. 703, §1 (NEW).]

[PL 1997, c. 703, §1 (NEW).]

3. Confidentiality of audit working papers. Except as provided in this subsection, audit working papers are confidential and may not be disclosed to any person. Prior to the release of the final audit or investigation report, the Auditor has sole discretion to disclose audit working papers to the department, commission or agency subject to the audit or investigation when such disclosure will not prejudice the audit or investigation. After release of the final audit or investigation report, working papers may be released as necessary to:

A. The department, commission or agency that was subject to the audit or investigation; [PL 1997, c. 703, §1 (NEW).]

B. Federal agencies providing a grant to the audited entity; [PL 1997, c. 703, §1 (NEW).]

C. Law enforcement agencies for the purpose of criminal law enforcement or investigations; or [PL 1997, c. 703, §1 (NEW).]

D. Other auditors in their work reviewing the Office of the State Auditor. [PL 2013, c. 16, §7 (AMD).]

[PL 2013, c. 16, §7 (AMD).]

SECTION HISTORY

PL 1997, c. 703, §1 (NEW). PL 2013, c. 16, §§6, 7 (AMD).

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