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## 7. Compliance Audit

### 7.1 Introduction

The Compliance Audit (CA) framework applies to organisations receiving grant. The purpose is to ensure that the GLA's policies, funding conditions and procedures are followed. The requirements are set out in various places: contracts, funding conditions (see the General chapter) and elsewhere in this affordable housing capital funding guide. Standardised terms of engagement for this process are at paragraph 7.10 below.

### 7.2 Audit Document File

Providers must maintain a comprehensive scheme file that contains all relevant documents. Phased schemes should be identified separately in documentation. For the audit visit, pdf copies of documents are acceptable only if the organisation has a robust policy/procedure on storage and archiving of the relevant documents. The independent auditor will need to review this policy/procedure, and conduct spot checks as deemed appropriate to ensure that essential original documents can be retrieved from the archive. The following list is indicative of the types of documents which will be examined. It is not intended to be an exhaustive list and should be read with paragraph 7.6 below.

#### **Scheme files:**

Valuation report for the site/property acquired. The report should:

- Take account of all the relevant factors affecting the site/property and its development;
- Carry the valuer's original signature;
- Clearly identify the site/property which is the subject of the valuation on an accompanying plan endorsed by the valuer.
- Be valid at the date of exchange of purchase contracts.
- (Where the vendor is a local authority) a letter from the LA endorsing valuation.
- Confirmation from provider's solicitors of the dates of exchange of purchase contracts and of completion, the purchase price paid and a comprehensive report on title.
- Documentary evidence to indicate that the procurement arrangements used agree with arrangements and procedures approved by the provider's governing body.
- Where provider s are receiving any other subsidy they must maintain on file a funding profile showing that grant is not being received in respect of costs subsidised by any other body.
- Where capital contributions to the scheme from other sources, including other public sources, are involved, confirmation of the amounts on offer and the sources of funding should be retained, including any correspondence with the third party (parties).

- (For schemes subject to s106 agreements) full details of off-site works required by vendor or obligations imposed by the LA.
- (For schemes subject to s106 agreements) detailed estimated costs associated with s106 works.
- Surveys, drawings, specifications, specialist and other consultants' reports.
- Terms of appointment of consultants.
- Evidence of the basis of selection of consultants and building contractor.
- Copies of the building contract document and final account documentation.
- (For empty homes schemes) copy of lease/licence agreement.
- (For empty homes schemes where a lease from a Local Authority was not signed before the start on site) A letter from the LA confirming their agreement to lease, written confirmation from the provider's solicitor that the LA's letter is legally binding and copies of the relevant pages of the draft lease.
- (For empty homes schemes) Local authority agreement to rents above prospective rents.
- Planning permissions, building regulations approval and any other statutory consents.
- Details of the insurance of the property during construction and following completion
- Sale valuations (Sale schemes only).
- Details of prospective rents must be documented on the provider's development files.
- Copy of leases (Shared Ownership only).
- Certificate of Practical Completion.
- Copy of the latest certificate relevant to grant claimed at Final Cost stage.
- For major site development works and VAT - final certificate/account in respect of the pre works and VAT certificates equating to the actual works costs above.
- Consultant's estimate of final works costs and, where appropriate (Design and Build and Package Deals, etc.) a separate estimate of the non-works elements, e.g. on costs.
- Detailed description of Major Repairs and Minor Miscellaneous Works including estimated prices and recent maintenance history, where these documents had not been previously submitted to the GLA.
- (For charitable RPs that have claimed grant to cover VAT) a letter from Customs & Excise or the RP's professional adviser confirming that the supply cannot be zero rated.

## Shared Ownership

RPs must retain on file the following for Compliance Audit purposes:

- Certificate of Practical Completion or equivalent. A certificate of Partial Completion is acceptable provided that all the units have been handed over leaving external works to be completed.
- Solicitor's letter confirming that the purchase has been completed and setting out the sum paid and date of completion (except works only schemes).
- Latest interim certificate showing actual costs to date.
- (Where major site development works and VAT are included in the works cost) The final certificate/account in respect of the pre-works and VAT certificates must be provided. (NB: these figures must together equate to the actual works cost element included in the final costs statement mentioned above).
- A property schedule showing addresses, floor areas, and valuations for the completed properties, together with actual rents and HB eligible service charges.
- Consultant's estimate of final works costs and, where appropriate (Design and Build and Package Deals, etc.) a separate estimate of the non-works elements, e.g. on costs.
- Sales valuations.
- Copies of leases.

## Affordable and Social Rent Schemes

Providers must retain on file the following for Compliance Audit purposes:

- Solicitor's letter confirming that the purchase has been completed and setting out the sum paid and date of completion (except Works Only schemes).
- Latest interim certificate showing actual costs to date.
- Where major site development works and VAT are included in the works cost, the final certificate/account in respect of the pre-works and VAT certificates should be provided. NB: these figures should together equate to the actual works cost above.
- Certificate of Practical Completion or equivalent. A certificate of Partial Completion is acceptable provided that all the units have been handed over leaving external works to be completed.
- Consultant's estimate of final works costs and, where appropriate (Design and Build and Package Deals, etc.), a separate estimate of the non-works elements, e.g. on-costs;
- Details of rents, including HB eligible service charges.
- Affordable and Social Rent Schemes where the vendor is a public body offering Other Public Subsidy in the form of discounted land

- To confirm the amount of Other Public Subsidy that the provider may have received, and which was included in the value for money assessment at offer stage, both of the following must be kept on file by the RP for Compliance Audit purposes:
- A copy of the Market Value valuation provided by a qualified independent valuer, either obtained by the Local Authority or commissioned by the provider.
- A letter from the public body stating that it endorses the valuation.

### **7.3 Frequency**

Compliance Audit takes place annually. Independent auditors appointed by lead partners check a sample of schemes for each partner or partnership which has signed up to either a partnership, framework delivery agreement (FDA) or short form agreement (SFA). The audit year is from 1 April to 31 March. Schemes completed during the preceding year are eligible for audit.

### **7.4 Appointing an auditor**

Lead partners are required to commission independent procedural compliance audits. The GLA Area Manager will:

- Provide guidance and support to the independent auditor as required; and
- Reserve the right to shadow the planned procedural audit visits in order to monitor the process.

Partners may commission any suitably experienced and qualified accountant to undertake this audit function, including either their External Auditors or external accountants undertaking the provider's Internal Audit function.

However, qualified accountants directly employed by the provider or any other of its provider partners are excluded as they are not considered to be appropriately independent. Arrangements where qualified surveyors and/or development consultants are employed by a qualified accountant to act in its name are acceptable to the GLA on condition that the arrangement maintains the duty of care required by the GLA, and that the commissioning agreement is between the RP and the accountant.

Previously, only Chartered Accountants could undertake the above audit function. As of April 2008 RICS Surveyors can also be used, provided that they are operating in accordance with the relevant Guidance Note (April 2008) published by the RICS, and that prior approval has been obtained from the GLA. However, the GLA may elect not to exercise its discretion to approve the use of non-accountants.

The Lead provider is strongly advised to discuss the principles and planned arrangements for self-assessment with the GLA prior to commissioning the independent auditor.

## 7.5 Audit procedure

The lead partner is responsible for audits of schemes completed within the partnership. Each summer, the GLA sends the lead partner an indication of the number of schemes to be audited, together with the following deadlines.

- For notifying the GLA of the independent auditor's name and the visit date.
- For submission to the GLA of the independent auditor's report.
- The lead partner engages an independent auditor and, two to four weeks before the visit date, the GLA provides a list of the schemes to be audited.

During the audit, the independent auditor checks each scheme for compliance using prescribed checklists (see below). The auditor reviews scheme information contained on file and the GLA's Investment Management System (IMS) software. Ideally the independent auditor should access IMS at the provider's office during the audit visit, with assistance or guidance from the provider if needed. If IMS access will not be possible during the visit, it should happen close to the visit date to ensure that the auditor reviews up-to-date information (in case there are changes to the IMS record for a scheme after the auditor has accessed the system). Screen prints should be dated.

The independent auditor drafts a standardised report for each partnership, setting out any deficiencies against published policy and procedures.

### Checklists and other links

Follow these links for the GLA's current compliance audit checklists and templates:

- [GLA template for Independent Auditor's Report \(IAR\)](#)
- [Which compliance audit checklist?](#) A table indicating which checklist is appropriate for each programme. The table has links to each checklist, including the HCA ones for programmes prior to 2011/15.
- [GLA Compliance Audit Checklist for Rent & Sale \(V3.0 July 2015\)](#)
- [GLA Compliance Audit Checklist for Empty Homes Lease & Repair \(V2.0 July 2015\)](#)
- [GLA Compliance Audit Checklist for Tenant Incentive Scheme \(V1.0 July 2015\)](#)

Earlier guidance is available to download from the the HCA's [compliance audit resources page](#). Standard terms of engagement are at paragraph 7.10 below.

Detailed rules and procedures for the GLA's programmes can be found in other chapters of this [capital funding guide](#). The GLA's website has [further information on individual housing investment programmes](#).

## 7.6 Independent Auditor Report

The audit represents a snapshot of the documentation available at the time of the audit. Where information is not available at time of audit this should be recorded as such in the independent auditor report.

The following is the relevant grant claim Evidence for Rent/Sale scheme types

**SOS grant claim:** a scanned copy of each of the following documents:

- Extracts from the Standard Form of Building Contract (SFBC) evidencing the:
  - Project name/details;
  - Parties to the contract;
  - Contract date/date of agreement;
  - Date of possession (if relevant); and
  - Project signatories ;
  - Details of the works and parties to the contract; and
  - A copy of the Appendix to the Contract showing the date of site possession; and
  - A copy of the Notice of Detailed Planning Permission (also known as the Decision Notice) from the relevant local planning authority; or
  - Other confirmation evidence as agreed with the GLA.

**PCF grant claim:** a scanned copy of one of the following documents:

- Practical completion certificate (or similar) from the professional named in the Building Contract as the Employer's contract administrator; or

Other confirmation evidence as agreed with the GLA.

Independent auditors should retain for at least six years scanned copies of relevant supporting documents for each grant claim event for rent and sale scheme types audited in that specific audit year (there is no need to forward these documents to the GLA).

The independent auditor sends the audit report to the GLA, with a copy to the investment partner (IP). Independent auditors are asked to ensure that documents submitted to the GLA are smaller than 4MB each to enable them to be stored electronically in the compliance audit system.

The IP then has 10 working days to submit an initial response to the findings setting out the reasons for any deficiencies identified and the corrective measures being undertaken.

### **GLA report**

For each issue identified in the independent auditor's report, the GLA audit report determines whether there has been a breach of funding conditions. It then awards an overall red, amber or green audit procedural rating. Red means serious failure to meet requirements, amber means failure to meet requirements and green means that requirements have been met with the exception of minor breaches. In addition to this overall procedural rating, there is an administration red/amber/green rating reflecting compliance with deadlines and response to queries. The GLA area manager may or may not invite the IP's comments on a draft version of this report.

The GLA sends the final version of the report to the chair of the IP's board (or, for local authorities, the cabinet member or lead member for housing).

### 7.7 Procedural Breach Severity Measures

The [list of procedural breach severity measures](#) provides some specific examples of breach types across four main headings as shown in the table and its purpose is to provide an indication of the severity of the breach. Each breach is allocated a severity measure e.g. high, medium or low.

The list of breaches and relevant severity measures are provided to help promote consistency but the table is not intended to be exhaustive. The GLA reserves the right to adjust or update this list as necessary. The GLA area manager will consider each scenario on a case by case basis and will use judgment in awarding the overall grade. The GLA area manager may take into account, for example, the cumulative impact of many low severity breaches in awarding the overall grade.

### 7.8 Sanctions

Under funding conditions, Framework Delivery Agreements, Short Form Agreements and other contracts, the GLA has the power to reclaim grant (in part or in whole) or apply interest when certain breaches are identified. This may happen in circumstances where grant has been claimed in advance of need or where the scheme has not been built to the standards or to meet the provisions outlined in the provider's bid/firm offer. High severity breaches can lead to grant reclaim and may involve other steps such as further specialist audit work. Medium severity breaches may lead to reclaim depending on the exact circumstances. Repeated breaches and failure to show improvements over consecutive audits will be picked up at quarterly contract reviews.

### 7.9 Documents to submit

Completed procedural checklists and scanned versions of supporting evidence documents do not need to be submitted to the GLA with the independent auditor report. However the GLA reserves the right to request electronic copies of them as and when considered necessary.

The individual performance of current lead investment partners is to be one of the prime considerations of pre-qualification for future partner status. Therefore the impact of the GLA not receiving the independent auditor's report by the due date may result in an adverse performance assessment.

### 7.10 Standardised terms of engagement

The following 'Standardised Terms of Engagement' should be read in conjunction with the Technical Release – Audit 03/03, Public Sector Special Reporting Engagements – Grant Claims' (September 2003) published by the Institute of Chartered Accountants of England and Wales (ICAEW). By publishing standardised terms of engagement the Greater London Authority (GLA) makes an offer to engage on these terms without the need to sign a commissioning document. The GLA will engage on these terms with suitably experienced and qualified accountants and with suitably experienced and qualified RICS surveyors. If the offer to engage is accepted by a Lead RP and an accountant or RICS surveyor, then an agreement is formed.



### *Standardised Terms of Engagement*

The following are the terms of engagement on which the Greater London Authority (GLA) agrees to engage [insert name of accountant/RICS surveyor] (the "independent auditor") to perform agreed upon procedures and report in connection with procedural compliance in relation to the receipt of Social Housing Grant (SHG).

An agreement between [insert name of the Lead RSL/Lead Grant recipient] (the "Lead Grant recipient") its reporting independent auditor and the GLA on these terms is formed if the Lead Grant recipient and the independent auditor enter into a commissioning arrangement incorporating the following terms of engagement. The duties owed to the GLA by the independent auditor under the agreement cease when the specified report, signed by the independent auditor, and, if requested the completed checklists, are received by the GLA all as set out below.

#### *1 Introduction*

The Lead Grant recipient is required to commission the independent auditor to provide to the GLA reports as set out in Clause 3 below in order to provide independent assurance. These terms of engagement set out the basis on which the independent auditor will sign the report.

#### *2 The Lead Grant recipient's Responsibilities*

- 2.1 The Lead Grant recipient is responsible for using grant for the purposes provided, maintaining proper records complying with the terms of any legislation or regulatory requirements and the GLA's terms and conditions of grant and providing relevant information to the GLA on a basis in accordance with the requirements of the grant conditions. The Lead Grant recipient is responsible for ensuring that the non-financial records can be reconciled to the financial records.
- 2.2 The management of the Lead Grant recipient will make available to the independent auditor all records, correspondence, information and explanations that the independent auditor considers necessary to enable the independent auditor to perform the independent auditor's work.
- 2.3 The Lead Grant recipient and the GLA accept that the ability of the independent auditor to perform the work effectively depends upon the Lead Grant recipient providing full and free access to the financial and other records and the Lead Grant recipient shall procure that any such records held by a third party are made available to the independent auditor.
- 2.4 The independent auditor accepts that, whether or not the Lead Grant recipient meets its obligations, the independent auditor remains under an obligation to the GLA to perform the work with reasonable care. The failure by the Lead Grant recipient to meet its obligations may cause the independent auditor to qualify the report or be unable to provide a report.

### *3 Scope of the independent auditor's work*

3.1 The Lead Grant recipient will provide the independent auditor with such information, explanations and documentation that the independent auditor considers necessary to carry out the due responsibilities. The independent auditor will seek written representations from management in relation to matters for which independent corroboration is not available. The independent auditor will also seek confirmation that any significant matters of which the independent auditor should be aware have been brought to the independent auditor's attention.

3.2 The independent auditor will perform the following work in relation to reports required by the GLA:

3.2.1 Grant return: The independent auditor will perform agreed performance tests as set out in the relevant procedural checklists published on the GLA and HCA websites within the related information accompanying the GLA Capital Funding Guide and will produce a report in the form set out in the Annual Independent Auditor's Report published on the GLA website within the related information accompanying the Capital Funding Guide. As a minimum this report should confirm the list of schemes checked and the independent auditor's summary of observations that arise from the completion of the Procedural Checklists and checks made for each scheme. If requested, by the relevant regional office of the GLA, the completed procedural checklists must be submitted with the report.

3.2.2 The procedural compliance checklists to be used will depend upon the category of product being developed and the financial year in which grant approval was given. Procedural checklists applicable to each category and year are available via the GLA website.

3.3 The independent auditor will not subject the information provided by the Lead Grant recipient to checking or verification except to the extent expressly stated. While, the independent auditor will perform the independent auditor's work with reasonable skill and care, the independent auditor's work should not be relied upon to disclose all misstatements, fraud or errors that might exist.

### *4 Form of the independent auditor's report*

4.1 The independent auditor's reports are prepared on the following basis:

4.1.1 The independent auditor's reports are prepared solely for the confidential use of the Lead Grant recipient and the GLA and solely for the purpose of submission to the GLA in connection with the GLA's requirements in connection with SHG. They may not be relied upon by the Lead Grant recipient or the GLA for any other purpose except as provided in 4.1.2 below.

4.1.2 The GLA may only disclose the reports to others who may have statutory rights of access to the report ("Others").

4.1.3 Neither the Lead Grant recipient, nor the GLA may rely on any oral or draft reports the independent auditor provides. The independent auditor accepts

responsibility to the Lead Grant recipient and the GLA for the independent auditor's final signed report only.

- 4.1.4 The independent auditor's reports must not be recited or referred to in whole or in part in any other document (including, without limitation, any publication issued by the GLA) without the prior written approval of the independent auditor.
- 4.1.5 Except to the extent required by court order, law or regulation or to assist in the resolution of any court proceedings the independent auditor's reports must not be made available, copied or recited to any other person (including, without limitation, any person who may use or refer to any of the GLA's publications).
- 4.1.6 To the fullest extent permitted by law, the firm of independent auditors, its partners and staff neither owe nor accept any duty to any person other than the Lead Grant recipient and the GLA (including, without limitation, any person who may use or refer to any of the GLA's publications including the Others) and shall not be liable for any loss, damage or expense of whatsoever nature which is cause by any other party's (including the Others) reliance on representations in the independent auditor's reports.
- 4.1.7 Any disclosure of the product of the independent auditor's report beyond what is permitted under clause 4.1.1, 4.1.2, 4.1.4 and 4.1.5 and any disclosure of this agreement beyond the GLA, the Lead Grant recipient and the independent auditors, may damage the independent auditor's commercial interests. If the GLA or the Lead Grant recipient receives a request for disclosure of the independent auditor's report or this agreement under the Freedom of Information Act 2000, the GLA or the Lead Grant recipient (as the case may be) will advise the independent auditor and will not make a disclosure in response to any such request without first consulting the independent auditor.

## ***5 Liability Provisions***

- 5.1 The independent auditor will perform the engagement with reasonable skill and care and acknowledges that it will be liable to the Lead Grant recipient and the GLA for losses, damages costs or expenses ("losses") caused by its breach of contract, negligence or wilful default, subject to the following provisions.
- 5.1.1 The independent auditor will not be so liable if such losses are due to the provision of false, misleading or incomplete information or documentation or due to the acts or omissions of any person other than the independent auditor, except where, on the basis of the enquiries normally undertaken by independent auditors within the scope set out in these terms of engagement, it would have been reasonable for the independent auditor to discover such defects;
- 5.1.2 The independent auditor accepts liability without limit for the consequences of its own fraud and for any other liability that is not permitted by law to limit or exclude;

- 5.1.3 Subject to the previous paragraph (5.1.2), the total aggregate liability of the independent auditor whether in contract, tort (including negligence) or other wise, to the GLA and the Department of Communities and Local Government arising from or in connection with the work which is the subject of these terms (including any addition or variation to the work), shall not exceed the amount of £1 million;
- 5.2 The Lead Grant recipient and the GLA agree that they will not bring any claims or proceedings against any individual partners, members, directors or employees of the independent auditor. This clause is intended to benefit such partners, members, directors and employees who may enforce this clause pursuant to the Contracts (Rights of Third Parties Act 1999) ("the Act"). Notwithstanding any benefits or rights conferred by this agreement on any third party by virtue of the Act, the parties to this agreement may agree to vary or rescind this agreement without any third party's consent. Other than as expressly provided in these terms, the provisions of the Act are excluded;
- 5.3 Any claims whether in contract, negligence or other wise, must be formally commenced within three years after the party bringing the claim becomes aware (or ought reasonably to have become aware) of the facts which give rise to the action in any event no later than six years after any alleged breach of contract, negligence or other cause of action. This expressly overrides any statutory provision that would otherwise apply.
- 5.4 This engagement is separate from, and unrelated to, the independent auditor's audit work on the financial statements of the Lead Grant recipient for the purposes of the Companies Act 1985 (or its successor) or other legislation and nothing herein creates obligations or liabilities regarding the independent auditor's statutory audit work, which would not otherwise exist.

## 6 Fees

The independent auditor's fees, together with VAT and out of pocket expenses, will be billed to the Lead Grant recipient. The Lead Grant recipient shall be solely responsible for the payment of such amounts in full. GLA is not liable in any circumstances to pay the independent auditor's fees or expenses.

## 7 Quality of Service

The independent auditor will investigate all complaints. The GLA or the Lead Grant recipient has the right to take any complaint to the relevant professional body. The GLA or the Lead Grant recipient may obtain an explanation of the mechanisms that operate in respect of a complaint to the ICAEW at [www.icaew.co.uk/complaints](http://www.icaew.co.uk/complaints) or by writing to ICAEW Professional Standards Office, Silbury Court, 412-416 Silbury Boulevard, Central Milton Keynes, MK9 2AF. In the case of the mechanisms that operate in respect of the RICS contact regulation@rics.org or write to RICS Regulation, Surveyor Court, Westwood Way, Coventry CV4 8JE.

### *8 Providing Services To Other Parties*

The independent auditor will not be prevented or restricted by virtue of the independent auditor's relationship with the Lead Grant recipient and the GLA including anything in these terms of engagement, from providing services to other clients. The independent auditor's standard internal procedures are designed to ensure that confidential information communicated to the independent auditor during the course of an assignment will be maintained confidentially.

### *9 Applicable Law and Jurisdiction*

- 9.1 This agreement shall be governed by, and interpreted and constructed in accordance with English law.
- 9.2 The Lead Grant recipient and the GLA and the independent auditor irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute (including claims for set-off and counter claims) which may arise in connection with the validity, effect, interpretation or performance or, of the legal relationship established by this agreement or other wise arising in connection with this agreement.
- 9.3 Each clause or term of this agreement constitutes a separate and independent provision. If any of the provisions other than clause 6.1 of the agreement are judged by any court or authority of competent jurisdiction to be void or unenforceable, the remaining provisions shall continue in full force and effect.

### *10 Alteration To Terms*

All additions, amendments and variations to these terms of engagement shall be binding only if in writing and signed by the duly authorised representatives of the parties. These terms supersede any previous agreements and representations between the parties in respect of the scope of the independent auditor's work and the independent auditor's report or the obligations of any of the parties relating thereto (whether oral or written) and represents the entire understanding between the parties.