

DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES

MARYLAND COMMISSION ON
CORRECTIONAL STANDARDS



STANDARDS MANUAL

REMOTE AUDIT PROCESS

GENERAL

The Maryland Commission on Correctional Standards (MCCS) will conduct regular formal audits of every state, local and private adult place of correctional confinement to determine compliance with the applicable regulations promulgated by the Secretary of the Department of Public Safety and Correctional Services (DPSCS). The Commission staff, assisted by Duly Authorized Inspectors, shall identify deficiencies, suggest corrective action plans and provide technical assistance as needed. The schedule of audits will be communicated to the respective managing official prior to the initiation of any audit cycle. All audits will be announced unless directed otherwise by the Secretary and/or Commission.

As a result of COVID-19 and the state's operational status, since March 2020, MCCS implemented the remote audit process, in addition to on-site auditing, to complete the regular formal audits of all Maryland adult places of confinement. As outlined in the pre-audit, on-site audit, and post audit activities, MCCS and the facilities will utilize electronic, virtual, video and teleconference technology and services to provide and communicate about primary and secondary documentation required for the remote auditing process. On-site auditing processes will be conducted in accordance with federal, state and local regulatory guidelines for safety protocols due to COVID-19. The Commission adopted the Remote Audit Process, on January 28, 2021.

PRE-AUDIT ACTIVITIES

The managing official will be contacted at least six (6) months prior to the scheduled on-site audit to agree upon the specific date and time for the on-site audit and the required date for submission of primary and secondary documentation for remote audit review. For facilities, in which the MCCS audit was cancelled due to the suspension of field audits because of COVID-19, the managing official will be contacted as follows:

1. at least 90 days prior to the scheduled rescheduled on-site audit, if the facility has begun the remote audit process; and
2. at least 6 months prior to rescheduled on-site audit, if the facility has not begun the remote audit process.

The managing official will be forwarded, at least sixty (60) days prior to the onsite audit visit, the pre-audit materials to be submitted to MCCS, at least thirty (30) days prior to the on-site audit. Pre-audit materials and primary and secondary documentation materials are to be forwarded electronically, by the technological methods (i.e. Google Drive, MCCS U drive, Email, Hard/Thumbdrive, etc.) available and agreed upon by the managing official and MCCS, thirty (30) days prior to the on-site audit visit for consideration and review by Commission staff. A review of the submitted pre-audit materials, the primary documentation (policies and procedures and inmate orientation materials) and the secondary documentation will be completed before the on-site visit.

The Executive Director will assign an Audit Team Leader (ATL) from the Commission staff and designate the audit team composition from the established listing of trained/certified Duly Authorized Inspectors (DAI's). Within the thirty (30) days prior to the scheduled on-site visit, Commission staff will meet to finalize the audit preparation. The ATL will contact the managing official/designee to confirm and discuss, which is not limited to, the following:

- the remote entrance and exit conferences,
- determine the primary and secondary points of contacts,
- remote and on-site audit arrangements,
- communicate regarding availability and accessibility to contract vendors and other department staff,
- generally, share the results of the preliminary review, including any requests for clarification and documentation,
- establish a schedule for continued communication (i.e. debriefings) throughout the audit,
- indicate the audit team composition,
- discuss expectations and the timelines, and
- coordinate the logistics of the on-site audit and all other phases of the audit process.

The ATL will also communicate with the designated DAI's to ensure their awareness of the logistics of the audit (i.e. access to documentation, directions to the facility, arrival time for on-site audit, standards assigned, etc.).

PRE ON-SITE REMOTE AUDIT ACTIVITIES

Members of the audit team will be assigned specific sections of the regulations to audit remotely and on-site. All audit team members will receive relevant materials and documentation (i.e., audit worksheets, audit documentation, facility descriptive outline and other necessary information) at least fifteen (15) days prior to the scheduled on-site audit visit. The ATL will meet, via the designated video and/or telephone conference (i.e. Google Meet, Zoom, etc.), with the audit team members to reiterate the individual standards assignments, answer any questions, further organize the required tasks, distribute the designated forms to be completed, discuss access to compliance documents, set the auditing review schedule for remote and on-site auditing and share the results of the primary documentation review performed by MCCS.

The Entrance Conference will be held remotely at the established date and time, via the designated video and/or telephone conference (i.e. Google Meet, Zoom, etc.). The ATL, Commission staff, and DAI's will meet with the managing official and other key facility staff to hold an Entrance Conference, at least seven (7) days prior to the scheduled on-site visit. The purpose of the conference is to introduce the team members, discuss the scope of the remote and on-site audit exercises, and provide a tentative schedule for audit activities, explain the inspection process, and answer any questions. The Entrance Conference allows for an exchange of information and clarification of any outstanding issues throughout the remote and on-site audit processes.

The audit team member, who is a MCCS staff member, will normally be responsible for conducting the formal inmate interviews, which will be held remotely, via the designated video and/or telephone conference (i.e. Google Meet, Zoom, etc.). If on-site inmate interviews must be conducted, federal, state, and local COVID-19 guidelines must be followed by the auditor and the facility staff and inmates. The ATL would coordinate the inmate interviews with the managing official or designee. If a facility has an official inmate representative body, they may be interviewed individually, in a small cluster or a group setting without direct staff presence for approximately one and a half hour to determine their perspective regarding standards-related matters. If not, the managing official will be asked to request inmates to volunteer to participate, ensuring a representative cross-section of the inmate population. Under no circumstances shall the managing official pre-select those persons to be interviewed. The interview will be conducted using proper interviewing techniques and will require the completion of the appropriate form. The auditor will provide a verbal summation of the inmate interviews at a remote debriefing, scheduled and coordinated by the ATL.

ON-SITE AUDIT ACTIVITIES

At the facility, the audit team member(s) will meet the managing official/designee, on the established date and time, to begin the on-site audit process, according to the itinerary discussed at the remote Entrance Conference. At all times, during the on-site audit, all audit team members and facility staff must wear personal protective equipment (PPE) and follow the federal, state, and local COVID-19 guidelines. If a DAI fails to arrive at the facility, the ATL will temporarily reassign the standards in question and notify the Executive Director, who will take appropriate action.

The audit team member(s) will conduct a modified tour of housing and inmate occupied areas of the facility to determine the general conditions of confinement and to assess the overall quality of life. The ATL will arrange the tour itinerary in conjunction with the managing official to maximize the use of available resources, as well as, to minimize the amount of disruption to the facility's normal routine. Audit team member(s) will take detailed notes of their observations. During the course of the tour, audit team members may hold brief informal discussions with facility personnel in the performance of their duties and inmates to obtain an overview of the facility and to gather general information. Throughout the tour, facility staff, inmates and the audit team member(s) must adhere to the current COVID-19 guidelines of federal, state and local governments. The ATL will ensure that the tour observations and the significant staff and inmate remarks of the respective audit team member(s) are shared with the managing official/designee by scheduling a video and/or telephone conference, no later than forty-eight (48) hours from the last day of the on-site visit. The managing official/designee will be required to submit a corrective action plan of the areas cited from the tour, via email, prior to the date of the scheduled remote Exit Conference.

In addition, if the ATL detects or is notified of a life-threatening or health-endangering practice or condition, the Executive Director will be contacted immediately, at which time, he/she may give verbal notice to the managing official to immediately cease the practice or condition.

Should the managing official fail to cease the life or health-threatening situation, the Executive Director may initiate closure proceedings. Written notice will be forwarded within twenty-four (24) hours by the person giving the notice or order to the managing official with copies to the executive authority of the jurisdiction, the Secretary of the DPSCS and the Commission Chair. Within ninety-six (96) hours of the verbal notice or order, the Commission will convene a hearing, remotely, according to established procedures, to review and confirm or countermand the order.

Audit team members are encouraged to return to various areas of the facility for a close examination of specific standards-required materials and activities to assist in compliance decision making. However, if the audit team member(s) requires any additional examination of an area, it may be requested to be conducted remotely, via Google Meet, by video conferencing, video recording or a picture. The ATL will establish the arrangements necessary between the audit team member(s) and the managing official/designee.

At the on-site audit, the audit team member(s) will initiate a review of the secondary documentation, which has been established that could not be provided to MCCS remotely. The standards which will require review on site will be communicated by the ATL to the audit team members, prior to the on-site audit. The auditor must keep thorough notes which are critical to the auditor's ability to recall important details regarding compliance of a standard, such as gaps or issues with submitted documentation, or the need to follow-up with the facility for clarification. The audit team member will establish if random sampling of the documentation would be appropriate to assess compliance with the standards to which they have been assigned. The review should take place in an area within the facility that provides adequate space, privacy and accessibility to personnel, inmates, records and the physical plant, as well as, meets the safety protocols for COVID-19. The audit team member(s) will conduct staff interviews off-site by scheduled video or teleconference, only. At the on-site audit, primary and secondary documentation must be centralized to facilitate the timely completion of the on-site review process.

It is the Commission's policy that the burden of proof for supporting compliance is the facility's responsibility, not the audit team. The type of facility and its size are important factors; however, the degree that the facility is prepared and the completeness, organization and comprehensiveness of the documentation are weighed heavily in the determination of compliance throughout the audit process. Facility personnel should remain readily available during the course of the audit to answer questions, present additional documentation and provide escort to certain parts of the facility as needed. However, it should also be noted that the audit team member(s) will work independently. Therefore, no staff person should be in the area designated for the team's use during the audit unless requested.

POST ON-SITE REMOTE AUDIT ACTIVITIES

The audit team members will complete the Standards Audit Worksheets by indicating their preliminary decisions of compliance, noncompliance and no applicability, as well as, make

recommendations to improve operations and programs. Audit team members should be guided by the concept that compliance is demonstrated by meeting all of the individual elements of the standard at all times, which means routine and consistent implementation of the required activity since the last audit or date of last compliance. Proof of compliance will be measured at the time of the audit; however, documentation presented subsequently may be considered. This principle of strict interpretation should be based on the "substantive" rather than the "absolute" definition of compliance, while taking into consideration "good faith efforts" and "preponderance of evidence" where appropriate. DAI's will apply the established guidelines regarding the number of personnel and inmate files to be reviewed and remain cognizant of the methods of documenting compliance (i.e., written materials in the form of policies and procedures, records, logs, etc; discussions with staff, inmates and other persons; and observation). Verbal verification alone is never sufficient to support compliance.

Throughout the remote and on-site audit of the facility, the ATL will remain available, in person, by email, telephone and/or video or telephone conference, to provide standards interpretation, clarify requirements for compliance determinations and otherwise provide assistance to the audit team member(s) and facility personnel, as needed. The ATL will communicate with the managing official or designee, at the on-site audit and during the remote auditing process, to keep him/her informed of decisions being made. The ATL will provide the managing official or designee with an audit debriefing, via email, telephone and/or video or telephone conference, throughout the audit process to ensure appropriate communication concerning the status of specific standards.

As the audit team member(s) complete the review of assigned standards, either remotely or on-site, they will report individually to the ATL, via email, telephone and/or video or telephone conference, to review and discuss their preliminary findings for the purpose of finalizing the compliance decisions. The ATL will record the audit findings on the designated form in preparation for the scheduled Remote Exit Conference. If the ATL does not concur with the audit team member(s) finding, he/she will attempt to resolve the difference. If unable to do so, the ATL will contact the Executive Director for clarification. Should this not be possible, the decision will be placed on hold until a conference with the ATL and Executive Director occurs. If unable to reach a consensus with regard to compliance findings, the audit team member may submit a minority report to the Executive Director which will be disseminated to the Commission Board prior to the meeting at which the final report and compliance plan will be considered. All notes, worksheets, audit results forms and other supportive documentation will be provided to the ATL from each auditor, via email or other available means, and shall become a permanent part of the audit file.

At the conclusion of the remote auditing process, which includes the on-site visit, the audit team members will meet with the managing official or designee and other facility staff at an Exit Conference, via the designated video and/or telephone conference (i.e. Google Meet, Zoom, etc.) to discuss the results of the audit, no later than fifteen (15) days from the on-site audit visit. The audit team members will summarize the audit conclusions, present general observations and remarks, offer specific recommendations and comment on overall audit preparation. Audit team members will

present the particular findings for those standards where they were the primary auditor. In addition, compliance plans will be suggested to address identified deficiencies. Those present will also be afforded the opportunity to ask questions, request clarification and inquire about reporting procedures. Prior to the Exit Conference, a copy of the MCCS Audit Results Form will be provided to the managing official or designee, via email, for appropriate action. Any appeals or requests for variance may be submitted in writing to the Executive Director within fourteen (14) days from the date of the Exit Conference.

POST-AUDIT ACTIVITIES

The ATL will discuss with the Executive Director, within five (5) working days following the Exit Conference, the audit results prior to formalization of the findings. This is to include but not be limited to: resolving determinations regarding particular standards' compliance issues; considering appeals by the facility managing official; evaluating variance requests for presentation to the Commission; validating non applicable determinations; and, generally receiving a briefing on the audit outcome. An Audit Evaluation form will be forwarded to each DAI and managing official to provide feedback on the audit process. The evaluation is to be returned to the Executive Director within thirty (30) days after the audit. The ATL will submit the draft audit report, inmate interview remarks and specific recommendations to the Executive Director for review and upon approval, to the managing official of the facility for review and comment within thirty (30) days of the completion of the audit. The contents of the Report will remain confidential pending review and approval by the Commission. The Executive Director's approved draft of the Final Report and Compliance Plan, with the inmate interview remarks and specific recommendations, will be submitted to the Commission members for consideration and approval at the next regularly scheduled meeting, no later than sixty (60) days from the completion of the audit.

The Commission will formally consider the Final Report and Compliance Plan at regularly scheduled, remote, open meetings. Representatives of the facility will be invited to attend, remotely, ask questions, provide additional information and explain appeals and variance requests which were or may have been previously submitted. The ATL will present the report, answer inquiries from the Commission members and otherwise be available to respond to questions, concerns, etc. The Commission Chair will then ask the membership to consider the Final Report and Compliance Plan, including the deadlines for addressing noncompliance items, and any appeals/variance requests. Once approved, the Executive Director will disseminate the Final Report and Compliance Plan to the specified distribution within fifteen (15) days of the Commission's action. It should be noted that the report is a public document and will be made available to interested persons upon request according to guidelines established in COMAR 12.11.02. The Secretary of the DPSCS will also receive copies of the report, as well as, the previously mentioned memoranda regarding inmate remarks and specific suggestions for the improvement of facility operations. The Secretary may issue correspondence to the jurisdiction regarding the audit outcome.

AUDIT FOLLOW-UP ACTIVITIES

All Compliance Plans will have a completion due date which is six (6) months from the first day of the month following the Commission's approval of the final report. A memorandum will be sent to the managing official, at least ninety (90) days prior to the approved completion date, to notify the jurisdiction that documentation will be due to substantiate compliance with the identified deficiencies. If documentation is submitted, the assigned MCCS staff will initiate a documentation review and inform the Executive Director and managing official of the results by memorandum within thirty (30) days. If on-site practice is necessary to determine compliance with a standard, the assigned MCCS staff will contact the managing official to arrange for the practice to be conducted remotely, via videoconference, video recording or taking pictures, at a mutually agreed upon date and time. If the managing official indicates that the initial plans for corrective action cannot be met or the documentation review determines that to be the case, the managing official will submit a written request to the Executive Director to extend the compliance deadline. The request, with supporting rationale, will be presented to the Commission members for their consideration at the next regularly scheduled meeting. If approved, the Commission will issue a one-time only revised plan for corrective action of six months from the original due date. If disapproved, the Commission may conduct a formal hearing according to established procedures to determine whether certain facility functions, operations or practices should be limited or discontinued, the facility closed or other appropriate action taken.

The staff will recommend to the Commission, at regular scheduled meetings, the presentation of the Recognition of Achievement (ROA) award to any facility which has attained total compliance with all applicable regulations within one year of the approval of the compliance plan. If approved, the Commission Chair will notify the jurisdiction in writing and request that they make the formal arrangements for the presentation. If a facility does not achieve 100% compliance within one year, the Commission staff shall continue to monitor the correction of the remaining deficiencies until the next scheduled audit. Should a facility attain total compliance after one year, but prior to the next scheduled audit, a letter of congratulations will be sent by the Chair to the managing official.

A primary goal of the agency is to facilitate total compliance with the standards, thereby fostering public safety, staff welfare and inmate well-being. Every effort will be made to assist those agencies subject to inspection. When requested, Commission staff will provide technical assistance personally, directly or by referral to other resources.

REMOTE AUDIT PROCESS TIMELINE	
TIMEFRAME	ACTIVITY
>6 mos prior to On-site Audit	MCCS Notice to Managing Official – Establish Remote and On-site Audit Date(s) and Remote Documentation Due date.
>60 days prior to On-site Audit	MCCS Notice – Provide On-site Audit Date, Audit Period, Pre-Audit Material and Due date.
>30 days prior to On-site Audit	Pre-Audit Materials and Remote Audit Documentation Due
>45 days	Duration of the Remote Audit Process/30 days prior to On-site Audit date, On-Site Audit, and 15 days after On-site Audit date
>15 days prior to On-site Audit	ATL provides Standard Assignments and Remote Audit and On-site Audit Directions/Information to Audit Team Members
7-14 days prior to On-site Audit	Notice to Managing Official regarding Audit Team Members, Standard Assignments, On-site Audit Date(s) and Scheduled Remote Entrance and Exit Conference Date/Time(s)
>7 days prior to On-site Audit	Remote Entrance Conference with Managing Official
TBD ATL	Remote Audit Debriefings – Inmate Interviews, Standard Compliance Issues and Audit Progress
TBD ATL	On-site Audit Debriefings – Tour Notes, Standard Compliance Issues and Audit Progress
>15 days after On-site Audit	Remote Exit Conference with Managing Official
To Be Scheduled	Commission Meeting
Begins 1 st day of Month after Commission Meeting	Compliance Plan (if applicable)
>6 mos from beginning of Compliance Plan	Monitoring Date (if applicable)
REMOTE MONITORING PROCESS TIMELINE	
TIMEFRAME	ACTIVITY
>90 days prior to Monitoring Date	Notice forwarded to Managing Official – Monitoring Date, Standards for Review and Monitoring Period
>3 days prior to Monitoring Date	Remote Entrance Conference with Managing Official/Designee – Schedule Remote Activities (i.e. physical inventories, etc.)
TBD by Lead	Debriefing with Managing Official/Designee
TBD by Lead	Remote Exit Conference with Managing Official/Designee
To Be Scheduled	Commission Meeting