

STATUS OF IHS INDIAN SELF-DETERMINATION POLICIES
(Issued prior to 07/28/99)

PART E: IHS POLICY LETTERS (CPLs)

Format	Policy	Date Issued	Title/Subject	Status as of 07/28/99
1. IHS CPL	89-1	03/09/89	Time Extension, New Contract Awards, Period of Performance	Rescinded: Prior to 1994
2. IHS CPL	89-2	03/00/89	Implementation of Interim Rule for Solicitation Provisions--Drug Free Workplace Act of 1988	Superseded 11/06/91 by the Interim Guidebook on the Public Law 93-638 Contracting Process Rescinded by IAP Handbook 07/28/99
3. IHS CPL	89-3	06/26/89	Guidance on Contracts Awarded Pursuant to Public Law 93-638 Pending Issuance of Amended Regulations (Excluding Construction, A&E and Small Purchases)	Rescinded by IAP Handbook 07/28/99
4. IHS CPL	89-4	08/14/89	Guidance on Implementation Aspects of the Amendments to P.L. 93-638 Related to Non-Construction Contracting	Rescinded by IAP Handbook 07/28/99
5. IHS CPL	89-5	09/01/89	Quarterly Reconciliation of Advances	Rescinded by IAP Handbook 07/28/99

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

Format	Policy	Date Issued	Title/Subject	Status as of 07/28/99
6. IHS CPL ¹	89-6	10/03/89	Preparation of Approval for JOFOC for Acquisition Made Under Authority of the Buy Indian Act	Superseded 11/06/91 by the Interim Guidebook on the Public Law 93-638 Contracting Process Rescinded by IAP Handbook 07/28/99
7. IHS CPL	90-1	10/05/89	Approval of JOFOC Under Authority of the Buy Indian Act	Superseded 11/06/91 by the Interim Guidebook on the Public Law 93-638 Contracting Process
8. IHS CPL	90-2	10/19/89	Procurement Integrity--Public Law 93-638	Rescinded by IAP Handbook 07/28/99
9. IHS CPL	90-3	02/07/90	Appropriate Use of Indian Self-Determination Contracts	Rescinded by IAP Handbook 07/28/99
10. IHS CPL	90-4	01/18/90	Suspension of Procurement Integrity Provisions	Superseded 11/06/91 by the Interim Guidebook on the Public Law 93-638 Contracting Process
11. IHS CPL	90-5	02/08/90	Renewal Contracts with Urban Indian Organizations	Superseded 11/06/91 by the Interim Guidebook on the Public Law 93-638 Contracting Process
12. IHS CPL	90-6	03/13/90	Conversion of Indian Self-Determination contracts to Calendar Year Basis and Duration of Contract Extensions	Rescinded by IAP Handbook 07/28/99

¹Not applicable to ISDA contracts.

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

Format	Policy	Date Issued	Title/Subject	Status as of 07/28/99
13. IHS CPL	90-7	04/16/90	Increases in Preaward Review Thresholds for A&E and Construction Awards	To be reissued as a Circular
14. IHS CPL	90-8	04/19/90	Headquarters Review of Proposed Final Decisions	Rescinded by IAP Handbook 07/28/99
15. IHS CPL	90-9	06/11/90	Additional Streamlining and Simplification of Indian Self-Determination Non-Construction Contracts	Rescinded by IAP Handbook 07/28/99
16. IHS CPL ²	90-10	07/11/90	Buy Indian Policy	
17. IHS CPL	90-11	08/27/90	Area Office Contract Management	Rescinded by IAP Handbook 07/28/99
18. IHS CPL	90-12	09/06/90	Clarification and correction of Memorandum--Additional Streamlining and Simplification of Indian Self-Determination Non-Construction Contracts	Rescinded by IAP Handbook 07/28/99
19. IHS CPL ³	91-1	11/08/90	Policy for the Delegation of Authorities to Contracting Officers and Non-Acquisition Personnel	Rescinded: Part 5, Chapter 5, Section 19, Indian Health Manual 09/30/94

²Not applicable to ISDA contracts.

³Not applicable to ISDA contracts.

STATUS OF IHS INDIAN SELF-DETERMINATION POLICIES

(Issued prior to 07/28/99)

PART F: IHS CIRCULARS

Format	Policy	Date Issued	Title/Subject	Status as of 07/28/99
1. IHS Circular	95-15	09/29/95	Funding of Personnel Costs Under P.L. 93-638 Contracts/Compacts	Current
2. IHS Circular	96-04	04/12/96	Contract Support Costs	Current
3. IHS Circular	97-07	07/25/97	Tribal Consultation and Participation Policy	Current

STATUS OF IHS INDIAN SELF-DETERMINATION POLICIES

(Issued prior to 07/28/99)

PART G: SPECIAL GENERAL MEMORANDA (SGMs)

Format	Policy	Date Issued	Title/Subject	Status as of 07/28/99
1. IHS SGM	97-1	12/4/97	New Federally Recognized/Restored Tribes Policy	Current.

F

DESIGNATION OF DMO, DAE, CDFO, AND AWARDING OFFICIALS - DOI	
Description	Organization
	Bureau of Indian Affairs
Designated Management Official (DMO)	Bureau of Land Management
Designated Agency Employee (DAE)	The Area Director or Superintendent with the authority to approve or decline a contract proposal within their respective jurisdiction.
Contract Designated Federal Official (CDFO)	The State Director (or designee) is authorized to approve, negotiate, and administer Title I, Indian Self-Determination Act contracts.
Awarding Official (AO)	Program official, management official, or contracting officer will probably be different for each contract.
	The Area Director or Superintendent with the authority to approve or decline a contract proposal within their respective jurisdiction.
	Program official, management official, or contracting officer (will probably be different for each contract).
	The obligation (award) of funds for 638 contracts is in accordance with existing State director procurement delegations. In most cases, the Awarding Official will be a Contracting Officer (CO). BLM State Office COs can award contracts up to \$100,000. Contracts above this amount must be awarded by the CO at BLM's National Business Center in Denver.
	Program official, management official, or contracting officer will probably be different for each contract.

DESIGNATION OF DMO, DAE, CDFO, AND AWARDING OFFICIALS - DOI (continued)		
Description	Organization	
	Minerals Management Service	Bureau of Reclamation
Designated Management Official (DMO)	The Associate Director for Royalty Management or his/her designee.	Regional Director or his designee, which could be the Deputy Regional Director, the American Affairs Program Manager, or other individual, as appropriate.
Designated Agency Employee (DAE)	Will be designated on a case-by-case basis, but typically will be the program's Self-Governance Coordinator.	Area Office Manager or his/her designee, which could be the Area Office Native American Affairs Coordinator, the Area Office Contracting Officer, or other individual, as appropriate.
Contract Designated Federal Official (CDFO)	Will be designated on a case-by-case basis, appropriate to the program being contracted.	
Awarding Official (AO)	The Associate Director for Royalty Management or his/her designee. The function may be further delegated.	Regional Director or his/her designee, which could be an Area Office Manager, an Area Contracting Officer, or other individual, as appropriate.

**DESIGNATION OF DMO, DAE, CDFO, AND AWARDING OFFICIALS - DOI
(continued)**

Description	Organization	
	Fish and Wildlife Service	National Park Service
Designated Management Official (DMO)	The Regional Director (or designee) is authorized to approve, negotiate and administer Title I, Indian Self-determination Act contracts.	The Regional director (or designee) is authorized to approve, negotiate, and administer Title I, Indian Self-Determination Act contracts.
Designated Agency Employee (DAE)	Program official, management official, or contracting officer (will probably be different for each contract).	Program official, management official, or contracting officer (will probably be different for each contract).
Contract Designated Federal Official (CDFO)		
Awarding Official (AO)	The obligation (award) of funds for 638 contracts is in accordance with existing Regional director procurement delegations. In most cases, the Awarding Official will be a Contracting Officer (CO).	The obligation (award) of funds for Indian Self-Determination contracts is in accordance with existing Regional Director procurement delegations. In most cases, the Awarding Official will be a Contracting Officer (CO).

DESIGNATION OF DMO, DAE, CDFO, AND AWARDING OFFICIALS - IHS	
Description	Organization
	Indian Health Service
Designated Management Official (DMO)	The IHS Area Directors.
Designated Agency Employee (DAE)	The Area CPLO, Executive Officer, Administrative Officer, Contracting Officer, or other person as designated by the appropriate IHS Area Director.
Contract Designated Federal Official (CDFO)	The Area CPLO, Executive Officer, Administrative Officer, Contracting Officer, or other person as designated by the appropriate IHS Area Director. This could also be a Senior Program Official, if so designated by the Area Director.
Awarding Official (AO)	The Contracting Officer who is authorized to award and sign ISDA contracts.

G

**ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS**

Notices of Intent (NOI) and contract proposals under Title I of the Indian Self-Determination and Education Assistance Act (ISDA) should be submitted to the appropriate Department of the appropriate office as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

ABERDEEN

Director (605) 226-7581
Aberdeen Area IHS FAX (602) 226-7541
Federal Building
115 Fourth Avenue, SE
Aberdeen, SD 57401

ALASKA

Director (907) 729-3686
Alaska Area IHS FAX (907) 729-3689
4141 Ambassador Drive
Anchorage, AK 99508-5928

ALBUQUERQUE

Director (505) 248-4500
Albuquerque Area IHS FAX (505) 248-4624
5300 Homestead Road, NE
Albuquerque, NM 87110

BEMIDJI

Director (218) 759-3412
Bemidji Area IHS FAX (218) 759-3510
522 Minnesota Avenue, N.W.
Bemidji, MN 56601

**ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)**

BILLINGS

Director (406) 247-7107
Billings Area IHS FAX (406) 247-7230
P.O. Box 2143
2900 4th Avenue North
Billings, MT 59101

CALIFORNIA

Director (916) 566-7001 x 101
California Area IHS FAX (916) 566-7053
1825 Bell Street, Suite 200
Sacramento, CA 95825-1097

NASHVILLE

Director (615) 736-2400
Nashville Area IHS FAX (615) 736-2406
711 Stewarts Ferry Pike
Nashville, TN 37214-2634

NAVAJO

Director (520) 871-5811
Navajo Area IHS FAX (520) 871-5872
P.O. Box 9020
Window Rock, AZ 86515-9020

OKLAHOMA

Director (405) 951-3768
Oklahoma City IHS FAX (405) 951-3780
Five Corporate Plaza
3625 NW 56th Street
Oklahoma City, OK 73112

**ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)**

PHOENIX

Director (602) 364-5039
Phoenix Area IHS FAX (602) 364-5042
Two Renaissance Square
40 N. Central Avenue, Suite 600
Phoenix, AZ 85004-4424

PORTLAND

Director (503) 326-2020
Portland Area IHS FAX (503) 326-7280
1220 S.W. Third Avenue, Room 476
Portland, OR 97204-2892

TUCSON

Director (520) 295-2406
Tucson Area IHS FAX (520) 295-2602
7900 South "J" Stock Road
Tucson, AZ 85746-9352

**ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)**

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

ALASKA

State Director
Bureau of Land Management
Alaska State Office
222 West 7th Avenue #13
Anchorage, AK 99513-7599

ARIZONA

State Director
Bureau of Land Management
Arizona State Office
222 N. Central Avenue
P.O. Box 555
Phoenix, AZ 85001-0555

CALIFORNIA

State Director
Bureau of Land Management
California State Office
2135 Butano Drive
Sacramento, CA 95825-0451

COLORADO

State Director
Bureau of Land Management
Colorado State Office
2850 Youngfield Street
Lakewood, CO 80215-7076

***ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)***

***STATES EAST OF THE MISSISSIPPI RIVER, PLUS ARKANSAS, IOWA, LOUISIANA,
MINNESOTA, MISSOURI AND WISCONSIN***

State Director
Bureau of Land Management
Eastern States Office
7450 Boston Boulevard
Springfield, VA 22153

IDAHO

State Director
Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, ID 83709-1657

MONTANA, NORTH DAKOTA, AND SOUTH DAKOTA

State Director
Bureau of Land Management
Montana State Office
Granite Tower
222 N. 32nd Street
Billings, MT 59101

NEVADA

State Director
Bureau of Land Management
Nevada State Office
850 Harvard Way
Reno, NV 89520-0006

***ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)***

NEW MEXICO, KANSAS, OKLAHOMA, AND TEXAS

State Director
Bureau of Land Management
New Mexico State Office
1474 Rodeo Road
P.O. Box 27115
Santa Fe, NM 87502-0115

OREGON AND WASHINGTON

State Director
Bureau of Land Management
Oregon State Office
1515 S.W. 5th Avenue
Portland, OR 97208

UTAH

State Director
Bureau of Land Management
Utah State Office
324 South State Street, Suite 301
P.O. Box 45155
Salt Lake City, UT 84145-0155

WYOMING AND NEBRASKA

State Director
Bureau of Land Management
Wyoming State Office
5353 Yellowstone Road
P.O. Box 1828
Cheyenne, WY 82003

**ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)**

MINERALS MANAGEMENT SERVICE

Minerals Management Service (800) 982-3226
Office of Indian Royalty Assistance, MS 3010 FAX (303) 231-3028
Attn: Self-Governance Coordinator
P.O. Box 25165
Denver, CO 80225

NATIONAL PARK SERVICE

Regional Director
Alaska Region
2525 Gambell Street, Room 107
Anchorage, AK 99503-2892
Phone: (907) 257-2690
FAX: (907) 257-2533

*Alaska Region serves park sites in:
Alaska*

Regional Director
Intermountain Region
P.O. Box 25287
Denver, CO 80225
Phone: (303) 969-2500
FAX: (303) 969-2785

*Intermountain Region serves park sites
in:
Arizona, Colorado, Montana, New
Mexico, Oklahoma, Texas, Utah,
Wyoming*

Regional Director
Midwest Region
1709 Jackson Street
Omaha, NE 68102
Phone: (401) 221-3431
FAX: (401) 341-2039

*Midwest Region serves park sites in:
Arkansas, Illinois, Indiana, Iowa,
Kansas, Michigan, Minnesota,
Missouri, Nebraska, North Dakota,
Ohio, South Dakota, Wisconsin*

***ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)***

**Regional Director
National Capital Region
1100 Ohio Drive, S.W.
Washington, D.C. 20242
Phone: (202) 619-7005
FAX: (202) 619-7302**

*National Capital Region serves park sites in:
District of Columbia, (and selected park sites in Maryland, Virginia, and West Virginia)*

**Regional Director
Northeast Region
U.S. Custom House
200 Chestnut Street
Philadelphia, PA 19106
Phone: (215) 597-7013
FAX: (215) 597-0815**

**Regional Director
Pacific West Region
600 Harrison Street, Suite 600
San Francisco, CA 94107-1372
Phone: (415) 427-1304
FAX: (415) 427-1485**

*Northeast Region serves park sites in:
Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia*

**Regional Director
Southeast Region
100 Alabama Street, S.W.
1924 Building
Atlanta, GA 30303
Phone: (404) 562-3100
FAX: (404) 562-3263**

*Pacific West Region serves park sites in:
American Samoa, California, Guam, Hawaii, Idaho, Nevada, Oregon, Washington*

*Southeast Region serves park sites in:
Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee*

***ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)***

BUREAU OF INDIAN AFFAIRS

ABERDEEN

Director (605) 226-7343
Aberdeen Area Office FAX (602) 226-7446
Bureau of Indian Affairs
Federal Building
115 4th Avenue, S.E.
Aberdeen, SD 57401

ALBUQUERQUE

Director (505) 766-3171
Albuquerque Area Office FAX (505) 766-1964
Bureau of Indian Affairs
P.O. Box 26567
Albuquerque, NM 87125

ANADARKO

Director (405) 247-6673
Anadarko Area Office FAX (405) 247-5611
Bureau of Indian Affairs
WCD Office Complex
P.O. Box 368
Anadarko, OK 73005

BILLINGS

Director (406) 247-7943
Billings Area Office FAX (406) 247-7976
Bureau of Indian Affairs
316 N. 26th Street
Billings, MT 59101

**ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)**

EASTERN AREA

Director (703) 235-2571
Eastern Area Office FAX (703) 235-8610
Bureau of Indian Affairs
3701 North Fairfax Drive, Suite 260
Arlington, VA 22203

JUNEAU

Director (907) 586-7177
Juneau Area Office FAX (907) 586-7169
Bureau of Indian Affairs
P.O. Box 25520
Juneau, AK 99802

MINNEAPOLIS

Director (612) 373-1000
Minneapolis Area Office FAX (612) 373-1186
Bureau of Indian Affairs
331 South 2nd Avenue
Minneapolis, MN 55401

MUSKOGEE

Director (918) 687-2296
Muskogee Area Office FAX (918) 687-2571
Bureau of Indian Affairs
101 North 5th Street
Muskogee, OK 74401

NAVAJO

Director (505) 863-8221
Navajo Area Office FAX (520) 863-8324
Bureau of Indian Affairs
P.O. Box 1060
Gallup, NM 87305

**ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)**

PHOENIX

Director (602) 379-6600
Phoenix Area Office FAX (602) 379-4413
Bureau of Indian Affairs
P.O. Box 10
Phoenix, AZ 85001

PORTLAND

Director (503) 231-6702
Portland Area Office FAX (503) 231-2201
Bureau of Indian Affairs
911 N.E. 11th Avenue
Portland, OR 97232

SACRAMENTO

Director (916) 979-2600
California Area Office FAX (916) 979-2569
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

NOTE: Agency Information (including addresses and telephone numbers) within BIA Areas are available on the internet on the DOI website:

<http://www.doi.gov/bia/areas/agency.html>.

**ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)**

FISH AND WILDLIFE SERVICE

Native American Liaison
U.S. Fish and Wildlife Service
1849 C Street, N.W., MS-3012
Washington, D.C. 20240

These NOAs and contract proposals will be sent to respective Regions and handled as noted in designation of P.L. 93-638 officials within Appendix F.

***ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)***

BUREAU OF RECLAMATION

PACIFIC-NORTHWEST REGION

**Area Office Manager
Snake River Area Office
214 Broadway Avenue
Boise, ID 83702-7298
Phone: (208) 334-1460**

***Pacific-Northwest Region serves:
Burns Paiute Tribes, Nez Perce,
Northwestern Shoshoni Indian
Reservation, Shoshone-Bannock (Fort
Hall), Shoshone-Paiute (Duck Valley)***

**Power Office Manager
Grand Coulee Power Office
Grand Coulee Dam
P.O. Box 620
Grand Coulee, WA 99133-0620
Phone: (509) 633-9501**

**Confederated Colville Tribes,
Spokane Tribe**

**Area Office Manager
Lower Columbia Area Office
825 N.E. Multnomah Street
Suite 1110
Portland, OR 97232-2135
Phone: (503) 872-2795**

**Chehalis Tribe, Confederated Tribes of
Coos, Confederated Tribes of Grand
Ronde, Confederated Tribes of Lower
Umpqua, Confederated Tribes of Warm
Umpqua, Confederated Tribes of
Coquille Tribe, Cow Creek Band of
Umpqua Tribe, Hoh Tribes, Jamestown
S’Klallam, Lower Elwha s’Klallam
Tribe, Lummi Tribe, Makah Tribe,
Muckleshoot, Nisqually Indian
Community, Nooksack Tribe, Port
Gamble, Puyallup, Quileute Tribe,
Quinault Tribe, Samish, Sauk-Suiattle,
Shoalwater Bay Tribe, Siletz Tribe,
Skokomish, Snoqualmie, Squaxin Island,
Stillaquamish, Suquamish Tribe of Port
Madison, Swinomish, Tulalip, Upper
Skagit**

***ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)***

Area Office Manager
Upper Columbia Area Office
P.O. Box 1749
Yakima, WA 98907-1749
Phone: (509) 575-5848 Ext. 202

Confederated Colville Tribes,
Confederated Salish & Kootenai Tribes
(Flathead), Confederated Tribes and
Bands of the Yakama Indian Nation,
Coeur d'Alene, Kootenai Tribe of Idaho,
Kootenai Tribe of Idaho, Kalispel Tribe,
Spokane Tribe

LOWER COLORADO REGION
Area Office Manager
Southern California Area Office
P.O. Box 849
Temecula, CA 92593-0849
Phone: (909) 695-5310

Lower Colorado Region serves:
Barona Rancheria, Benton Paiute I.R.,
Big Pine Rancheria, Bishop Rancheria,
Cahuilla I.R., Campo I.R., Capitain
Grande I.R., Cuyapaipe I.R., Fort
Independence I.R., Inaja-Cosmit I.R.,
Jamul Indian Village, La Jolla I.R.,
La Posta I.R., Lone Pine Rancheria,
Los Coyotes I.R., Manzanita I.R., Mesa
Grande I.R., Pala I.R., Pauma and
Yulma, I.R., Pechange I.R., Ramona
I.R., Rincon I.R., San Manual I.R.,
San Pascual I.R., Santa Yaabel I.R.,
Soboba I.R., Sycuan I.R., Timbisha W.
Shoshone, Twentynine Palms I.R.,
Viejas I.R.

Regional Director
Regional Office
P.O. Box 61470
Boulder City, NV 89006-1470
Phone: (702) 293-8411

Havasupai I.R., Aualapai I.R., Kaibab
Paiute I.R., Las Vegas Paiute I.R.,
Moapa River Paiute I.R., Shivwits
Paiute I.R., Southern Paiute I.R.,
Zuni Indian Reservation

***ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)***

Area Office Manager
Yuma Area Office
P.O. Box D
Yuma, AZ 85366-7504
Phone: (520) 343-8155

Agua Caliente I.R., Augustina I.R.,
Cabazon I.R., Chemehuevi I.R.,
Colorado River I.C., East Cocopah I.R.,
Fort Mojave I.R., Fort Yuma I.R.,
Morongo I.R., Santa Rosa I.R., Torres
Martinez I.R., West Cocopah I.R.

Area Office Manager
Phoenix Area Office
P.O. Box 9980
Phoenix, AZ 85068-0980
Phone: (602) 395-5604

Ak Chin I.C., Camp Verde I.R., Fort
McDowell I.R., Gila River I.C., Hopi
Tribe, Navajo Nation, Pascua Yaqui
Tribe, Salt River Pima-Maricopa I.C.,
San Carlos I.R., Tohono O'odham
Nation, Tonto Apache I.R., White
Mountain Apache I.R., Yavapai-Prescott
I.R., Zuni Pueblo

GREAT PLAINS REGION

Area Office Manager
Montana Area Office
P.O. Box 30137
Billings, MT 59107-0137

Great Plains Region serves:
Blackfeet, Crow, Fort Belknap (Gros
Ventre & Assiniboine), Fort Peck
(Assiniboine & Sioux), Northern
Cheyenne, Rocky Boys

Area Office Manager
Wyoming Area Office
P.O. Box 1630
Mills, WY 82644-1630
Phone: (307) 261-5671
Phone: (406) 247-7298

Wind River

***ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)***

**Area Office Manager
Dakotas Area Office
Federal Building (Old Post Office)
P.O. Box 1017
Bismarck, ND 58502-1017
Phone: (701) 250-4242**

**Cheyenne River, Crow Creek, Devils
Lake, Flandreau, Fort Berthold,
Lower Brule, Pine Ridge, Rosebud,
Sisseton, Standing Rock, Turtle
Mountain, Yankton**

**Area Office Manager
Oklahoma-texas Area Office
300 East 8th Street, Room 801
Austin, TX 78701-3225
Phone: (512) 916-5641**

**Absentee Shawnee, Alabama-Coushatta,
Alabama-Quassarte of Creeks, Apache,
Caddo, Cherokee, Cheyenne-Arapaho,
Chickasaw, Choctaw, Citizen Band of
Potawatomi, Comanche, Creek,
Delaware, Eastern Shawnee, Ft. Sill
Apache, Iowa, Kaw, Kialegee Creek,
Kickapoo, Kiowa, Miami, Modoc,
Osage, Otoe-Missouri, Ottawa, Pawnee,
Peoria, Ponca, Ponca Tribe of
Quapaw, Sac & Fox, Seminole,
Cayuga, Texas Kickapoo, Tholpthocco
Creek, Tonkawa, United Keetoowah
Band of Cherokee, Wichita, Wyandotte**

**Nebraska,
Seneca-**

**Area Office Manager
Nebraska-Kansas Area Office
P.O. Box 1607
Grand Island, NE 68802-1607
Phone: (308) 389-4622 Ext. 202**

**Iowa, Kickapoo, Omaha, Ponca Tribe of
Nebraska, Potawatomi, Sac & Fox,
Santee, Winnebago**

***ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)***

UPPER COLORADO REGION

**Area Office Manager
Albuquerque Area Office
505 Marquette N.W., Suite 1313
Albuquerque, NM 87102-2162
Phone: (505) 248-5357**

***Upper Colorado Region serves:
Alamo Navajo Tribe of New Mexico,
Mescalero Apache Tribe, Pueblo of
Acoma, Pueblo of Cochiti, Pueblo of
Isleta, Pueblo of Jemez, Pueblo of
Laguna, Pueblo of Nambe, Pueblo of
Picuris, Pueblo of Pojoaque, Pueblo of
Sandia, Pueblo of San Felipe, Pueblo of
San Ildefonso, Pueblo of San Juan,
Pueblo of Santa Ana, Pueblo of Santa
Clara, Pueblo of Santo Domingo, Pueblo
of Taos, Pueblo of Tesuque, Pueblo of
Zia, Ramah Navajo Tribe of New
Mexico, Ysleta-Del-Sur Pueblo, Zuni
Tribe of New Mexico***

**Area Office Manager
Durango Area Office
P.O. Box 640
Durango, CO 81302-0640
Phone: (970) 385-6590**

***Jicarilla Apache Tribe, Southern Ute
Indian Tribe, Ute Mountain Ute Indian
Tribe***

**Office Manager
Farmington Office
300 W. Arrington, Suite 50
Farmington, NM 87401-8442
Phone: (505) 325-1794**

Navajo Nation

**Area Office Manager
Provo Area Office
302 East 1860 South
Provo, UT 84606-7317
Phone: (801) 379-1101**

***Northwestern Band of Shoshoni, Paiute
Indian Tribes of Utah, San Juan
Southern Paiute Tribe, Skull Valley
Goshute, Uintah & Ouray Ute Indian
Tribe***

***ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)***

MID-PACIFIC REGION

**Area Office Manager
Klamath Basin Area Office
6600 Washburn Way
Klamath Falls, OR 97603-9365
Phone: (541) 883-6935**

**Area Office Manager
Northern California area Office
16349 Shasta Dam Blvd.
Shasta Lake, CA 96019-8400
Phone: (916) 275-1554**

Mid-Pacific Region serves:

**Elk Valley Rancheria, Hoopa Valley
Tribe, Karuk Tribe, Klamath Tribes,
Quartz Valley Rancheria, Resighini
Rancheria, Smith River Rancheria,
Yurok Tribe**

**Alturas Rancheria, Berry Creek
Rancheria, Big Bend Rancheria, Big
Lagoon Rancheria, Big Valley
Rancheria, Blue Lake Rancheria,
Colusa Rancheria, Cortina Rancheria,
Coyote Valley Rancheria, Enterprise
Rancheria, Greenville Rancheria,
Grindstone Creek Rancheria, Hoopa
Valley Tribe, Hopland Rancheria,
Karuk Tribe, Laytonville rancheria,
Likely Rancheria, Lookout Rancheria,
Manchester Rancheria, Montgomery
Creek Rancheria, Mooretown
Rancheria, Pinoleville Rancheria, Potter
Valley Rancheria, Redding Rancheria,
Redwood Valley Rancheria, Roaring
Creek Rancheria, Robinson Rancheria,
Rohnerville Rancheria, Round Valley
Reservation, Sherwood Valley
Rancheria, Sulphur Bank Rancheria,
Table Bluff Rancheria, Trinidad
Rancheria, Upper Lake Rancheria, X-L
Ranch Rancheria, Yurok Tribe**

***ADDRESSES FOR SUBMITTING NOTICES OF INTENT
AND CONTRACT PROPOSALS (continued)***

**Area Office Manager
Lahonta Basin Area Office
P.O. Box 640
Carson City, NV 89702-0640
Phone: (702) 882-3436**

**Bridgeport Rancheria, Carson Colony,
Cedarville Rancheria, Dresslerville
Colony, Duckwater Reservation, Ely
Colony, Fallon Colony, Fort Bidwell
Reservation, Lovelock Colony, Pyramid
Lake Reservation, Reno-Sparks Colony,
Summit Lake Reservation, Susanville
Rancheria, Te-Moak, Battle Mt. Colony,
Te-Moak, Elko Colony, Te-Moak,
Odgers Ranch, Te-Moak, Ruby Valley,
Te-Moak, South Fork, Walker River
Reservation, Washoe Reservation,
Winnemucca Colony, Woodford Colony,
Yerrington Colony, Tomba Colony**

**Area Office Manager
South-Central California Area Office
2666 North Grove Industrial Drive, Suite 106
Fresno, CA 93727-1551
Phone: (209) 487-5116**

**Big Sandy Rancheria, Chicken Ranch
Rancheria, Cold Springs Rancheria,
North Fork Rancheria, Picayune
Rancheria, Santa Rosa Rancheria, Santa
Ynez Rancheria, Table Mountain
Rancheria, Tule River Indian
Reservation, Tuolumne Rancheria**

**Area Office Manager
Central California Area Office
7794 Folsom Dam Road
Folsom, CA 95630-1799
Phone: (916) 988-1707**

**Buena Vista Rancheria, Cloverdale
Rancheria, Dry Creek Rancheria,
Jackson Rancheria, Middletown
Rancheria, Rumsey Rancheria, Sheep
Ranch Rancheria, Stewarts Point
Rancheria**

H

SUMMARY OF TIME FRAMES

**RESPONSIBLE
OFFICIAL**

CHAPTER TIME FRAME ACTION

See Introduction to Chapter 5 for summary of 90-day time frame.

4 - Proposal Contents	Immediately	Record receipt of proposal/make copies/distribute for review	DAE
5 - Review/Approval	2 days	Notify T/TO of proposal receipt (identify 90-day period in receipt letter)	DAE
5 - Review/Approval	Immediately	Record receipt of proposal/make copies/distribute for review	DAE
5 - Review/Approval	7 days	Proposal review planning/assemble review panel	DAE
5 - Review/Approval	15 days	Screen proposal for completeness	DAE/Panel
5 - Review/Approval	140 days	Contract renewal information to T/TO funding, etc.	DAE

SUMMARY OF TIME FRAMES (continued)

<u>CHAPTER</u>	<u>TIME FRAME</u>	<u>ACTION</u>	<u>RESPONSIBLE OFFICIAL</u>
5 - Review/ Approval	7 days	Renewal/HHS/BIA funding/PFSAs, etc.	DAE
6 - Declination	5 days	Declination collection/distribution of documents	DAE
6 - Declination	20 days after decision	Documents to the T/TO	DAE
8 - Leases	20 days	DOI - meet with T/TO to negotiate lease	DAE
11 - Appeals	3 days	DOI - Request for informal conference/ several actions	DAE
11 - Appeals	10 days	Informal conference recommended decision	DAE
16 - Accountability	5 days	Report non-compliance (performance)	DAE
6 - Declination	70 days	HHS - DMO notification to HQLT DOI - DMO notification to Solicitor	DMO

SUMMARY OF TIME FRAMES (continued)

<u>CHAPTER</u>	<u>TIME FRAME</u>	<u>ACTION</u>	<u>RESPONSIBLE OFFICIAL</u>
9 - Property	60 days	Notification of real property	DMO
10 - Waivers	5 days	DOI - Processing request/to AO	DMO
10 - Waivers	15 days	DOI - Processing request/recommendations	DMO
10 - Waivers	35 days	DOI - Processing request/recommendations to AS	DMO
16 - Accountability	45 days	Response to tribal evaluation	DMO
11 - Appeals	7 days	DOI informal conference/several actions	DMO
14 - Retrocession	10 days	Statement regarding hearing on record	DMO/AO
5 - Review/ Approval	180, 150, 140, 120 days	AFA docket system notification	AO
9 - Property	25 days	Acquisition pursuant to NOA	AO
9 - Property	35 days	Submission of GSA-1334	AO

SUMMARY OF TIME FRAMES (continued)

<u>CHAPTER</u>	<u>TIME FRAME</u>	<u>ACTION</u>	<u>RESPONSIBLE OFFICIAL</u>
9 - Property	60 days	List of property to T/TO	AO
9 - Property	60 days	Disposal of Government property instructions to T/TO	AO
13 - Contract Dispute	60 days	Decision on T/TO claim	AO
13 - Contract Dispute	30 days	Preparation of administrative record	AO
14 - Retrocession	45 days	Request corrective action	AO
5 - Review/Approval	140 days	AFA notification to CDTO	CDFO
20 - Monitoring	30 days before visit	Develop monitoring plan	CDFO
9 - Property	4 months	Screening Card expiration notification	PMO

SUMMARY OF TIME FRAMES (continued)

<u>CHAPTER</u>	<u>TIME FRAME</u>	<u>ACTION</u>	<u>RESPONSIBLE OFFICIAL</u>
4 - Proposal Contents	Within 30 days of receipt of NOI	Provide technical assistance	Office
9 - Property	30 days	Review/notification of T/TO request	Office
10 - Waivers	Immediately	DOI - Processing request/date stamped	Office
11 - Appeals	30 days	Set up informal conference	Office
11 - Appeals	3 days	Notice of appeal actions	Office
10 - Waivers	75 days	IHS - Director, IHS, to notify Area Director of decision	Director
8 - Leases	20 days	IHS - meet with T/TO to negotiate lease	DFEE
10 - Waivers	45 days	IHS Area recommendations regarding waiver to OTP	Area
11 - Appeals	7 days	HHS informal conference/several actions	Area Director

SUMMARY OF TIME FRAMES (continued)

<u>CHAPTER</u>	<u>TIME FRAME</u>	<u>ACTION</u>	<u>RESPONSIBLE OFFICIAL</u>
18 - Additional Guidance	30 days	Notice to Director, SDS	Area Director
10 - Waivers	10 days	IHS - OTP recommendations to Director, IHS	OTP
11 - Appeals	5 days	Hearing procedures	IBIA
11 - Appeals	15 days	Pre-hearing conference	ALJ

FEDERAL PAYMENT PROCEDURES

Step	DEPARTMENT OF THE INTERIOR	
	Bureau of Indian Affairs	Bureau of Land Management
1. Purchase Requisition	Originating program office prepares Purchase Requisition and sends to appropriate Procurement/Contracting Office for further action.	Originating program office prepares Purchase Requisition (SF-1510-18) and sends to appropriate contracting office (local for amounts up to \$100,000; Denver for amounts over \$100,000. All Alaska field survey contracts go to Denver regardless of amount.
2. Contract Awarded	Files set-up in appropriate office: Contracting Office and Finance Office. Contracting Officer (CO) sends copy to finance for obligation.	Files set-up in appropriate offices: CO, Payment/Finance Division, etc. If necessary, CO sends wire transfer form (ACH Vendor/Miscellaneous Payment Enrollment Form, SF-3881) to tribe; tribe sends completed form to Payment/Finance Division (Denver). CO sends copy of contract with funding amounts to Payments/Finance Division.
3. Funds Obligated	Information entered into Federal Financial System (FFS) by Finance personnel.	Information entered into FFS by Finance/Payment division personnel.
4. Invoice Submitted by Tribe	Tribes fill out the P638, Request for Payment Form and submit to the Contracting Officer Representative (COR).	Tribe sends Request for Advance or Reimbursement Form (SF-270) or invoice to COR.

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

APPENDIX I

FEDERAL PAYMENT PROCEDURES (continued)

Step	DEPARTMENT OF THE INTERIOR	
	Bureau of Indian Affairs	Bureau of Land Management
5. Invoice Approved	COR ensures the information is complete and consistent, authorizes (signs), and faxes to the Division of Accounting Management	COR prepares Certificate for Contract Payment/Invoice (BLM Form 1510-10), and sends to CO. CO verifies with program official that work has been performed, approves form and sends original approved invoice to Payment/Finance division.
6. Payment	Division of Accounting Management encodes the payment into FSS and ultimately Treasury makes the payment via check or electronic payment.	Payment/Finance Division makes payment via electronic deposit.

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

APPENDIX I

FEDERAL PAYMENT PROCEDURES (continued)

Step	DEPARTMENT OF THE INTERIOR	
	Minerals Management Service	Bureau of Reclamation
1. Purchase Requisition	Originating program office prepares purchase requisition (Form MMS-2016 or in IDEAS) and sends to appropriate contracting office.	Originating program office prepares Purchase Requisition (BOR Form 7-702) or electronic requisitioning form and send/transmits to the appropriate acquisition office.
2. Contract Awarded	Files set up in appropriate offices: Contracting Office, Financial Management Branch (MS-2310), etc. If necessary, send wire transfer form (ACH Vendors/- Miscellaneous Payment Enrollment Form, SF-3881) to tribe; tribe sends completed form to Contracting Office or Financial Management Branch. If sent to Contracting Office, contracting will forward to Financial Management Branch. Copy of contract with funding amounts sent to Financial Management Branch (MS-2300).	Files set up in appropriate office: Contracting Officer (CO) , Payment/Finance Division. CO sends wire transfer from (OMB Form No. 1510-0056) to tribe; tribe sends completed form to Payment/Finance Division (Denver). CO sends copy of contract with funding amounts to Payments/Finance Division.
3. Funds Obligated	Upon contract or purchase order awarded, funds are obligated in the ABACIS System with appropriate account number, amount, and object class.	Information entered into FFS by Finance/Payment Division personnel.

APPENDIX I

I-3

07/28/99

FEDERAL PAYMENT PROCEDURES (continued)

Step	DEPARTMENT OF THE INTERIOR	
	Minerals Management Service	Bureau of Reclamation
4. Invoice Submitted by Tribe	Vendor submits invoice to CO or Financial Management Division.	Tribe sends Request for Advance or Reimbursement form (SF-270) or invoice to COR.
5. Invoice Approved	CO certifies and approves invoice for proper payment for contract. Program Official contacts the purchaser to verify that work or services have been performed. Approval is made for payment.	Receiving/program official formally acknowledges receipt of goods/services. CO sends internal Certification form to COR to certify acceptance of goods/services. COR signs form and forwards to Finance for payment.
6. Payment	Payment is made via electronic funds transfer or remit to address in accordance with the terms of agreement. Payments are made within 10 days after certify date by CO for all tribe payments.	Payment/Finance Division makes payment via check or electronic deposit.

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

APPENDIX I

FEDERAL PAYMENT PROCEDURES (continued)

Step	DEPARTMENT OF THE INTERIOR	
	Fish and Wildlife Service	National Park Service
1. Purchase Requisition	Originating program office prepares financial guidance on program being contracted and sends to appropriate Procurement/Contracting Office for appropriate action.	Originating program office prepares financial guidance on program being contracted and sends to appropriate Procurement/Contracting Office for appropriate action.
2. Contract Awarded	Files set up in appropriate office: contracting Office and Finance Office. Electronic fund transfer (EFT) routing information obtained from tribe. Contracting Officer (CO) sends copy to finance for obligation.	Files set up in appropriate office: Contracting Office and Finance Office. Electronic fund transfer (EFT) routing information obtained from tribe. Contracting Officer (CO) sends copy to Finance for obligation.
3. Funds Obligated	Obligating information entered into Refuge and Hatching Operations and Maintenance by Finance personnel.	Obligating information entered into Accounting System by Finance personnel.
4. Invoice Submitted by Tribe		As appropriate.

FEDERAL PAYMENT PROCEDURES (continued)

Step	DEPARTMENT OF THE INTERIOR	
	Fish and Wildlife Service	National Park Service
5. Invoice Approved	As appropriate.	As appropriate.
6. Payment	Contracting and General Services make payment to tribe in accordance with payment provisions negotiated in contract (e.g. lump sum payment, etc.) at the time that contract is obligated.	Accounting Operations makes EFT payment to tribe in accordance with payment provisions negotiated in contract (e.g. lump sum payment, etc.) at the time that contract is obligated.

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

APPENDIX I

FEDERAL PAYMENT PROCEDURES (continued)

Step	DEPARTMENT OF HEALTH AND HUMAN SERVICES Indian Health Service
1. Purchase Requisition	Originating program office prepares financial guidance on program being contracted and sends to appropriate Procurement/Contracting Office for appropriate action.
2. Contract Awarded	Files set up in appropriate office: Contracting Office and Finance Office. Electronic fund transfer (EFT) routing information obtained from T/TO. Contracting Officer (CO) sends copy to finance for obligation.
3. Funds Obligated	Obligating information entered into Health Accounting system (HAS) by Finance personnel.
4. Invoice Submitted by Tribe	N/A.

FEDERAL PAYMENT PROCEDURES (continued)

Step	DEPARTMENT OF HEALTH AND HUMAN SERVICES	
	Indian Health Service	
5. Invoice Approved	N/A.	
6. Payment	Division of Financial management (DFM) makes EFT payment to tribe in accordance with payment provisions negotiated in contract (e.g. lump sum payment, etc.) at the time that contract is obligated.	

**U.S. GOVERNMENT LEASE FORMS/DOCUMENTS
FOR REAL PROPERTY LEASE CONTRACTS**

Definitions

- **Capital Lease** Any lease where the Government assumes a substantial portion of the lessor's investment or ownership risk (based upon building design or location, lease cost, term or eventual ownership). Capital leases require congressional approval and advance funding for the entire lease term, including options.
- **Instant Leases** Leases where the total cost of the lease, over the entire term of the lease including options and lump sum items, will not exceed \$25,000.
- **Small Leases** Leases over \$25,000, but less than 10,000 square feet.
- **Temporary Leases** Leases not to exceed 6 months.

Forms/Clauses

Applicability

Pre-Award Documents

- **Public Advertising**
GSA Form 570.202 New leases \geq 10,000 square feet; **NOT** applicable to most P.L. 93-638 situations (sole source). However, the Leasing Officer must prepare a Justification for Other than Full and Open Competition (JOFOC) to document the lease file per the Competition in Contracting Act (CICA).
- **Market Survey Form** All leases (warranted lease contracting officer's files).
- **Solicitation Provisions**
GSA Form 3516 Contains terms, conditions, and instructions which apply only before contract award and do not become part of the contract.
- **Solicitation for Offers** All leases \geq 10,000 square feet with lease terms greater than six months.

Lease Forms/Clauses

- **U.S. Government Lease for Real Property, Standard Form 2**
or
U.S. Government Lease for Real Property (Short Form), SF-2-B
Mandatory - all leases, except when SF-2-B is applicable.
Can be used in lieu of SF-2 with Expedited leasing procedures for Instant Leases, Temporary Leases, and Small Leases.

- **General Clauses
GSA Form 3517***
or
General Clauses,
GSA Form 3517A*
or
General Clauses,
GSA Form 3517B*
Mandatory - all leases; contains clauses which are used in solicitations and contracts and apply both before and after award. General Clauses are incorporated by reference for leases of \$25,000 or less. GSA 3517 A and GSA 3517 B can be used in lieu of the GSA 3517, see below.
Leases less than \$25,000. Can be used in lieu of GSA 3517 with Expedited Leasing Procedures for Instant, Small, and Temporary Leases.
Leases greater than \$25,000 **and** less than 10,000 square feet or any lease that does not exceed 6 months.

- **Representations and Certifications,
GSA Form 3518***
or
Representations and Certifications,
GSA Form 3518A*
Mandatory - all leases, except for Instant, Small, and Temporary Leases when the GS-3518A is used - see below.
All leases per requirements for acquisition of Instant, Small, and Temporary Leasehold Interests in Real Property.

***GSA Forms change periodically to implement new laws and executive orders affecting real property leases. See GSA's internet site for the most current forms: <http://www.gsa.gov>**

Laws and Executive Orders Affecting Leases

In addition to the basic premise of how the delegation of legal authority takes place, the Congress has also passed specific laws dealing with just the law of leasing. The delegated leasing authority is found in the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and 490) and the Public Buildings Act (40 U.S.C. 601-615). The Procurement Acquisition Authority is found in another part of the Federal Property and Administrative Services Act (41 U.S.C. 253(c)).

Other specific laws applicable to lease formation and implemented by the GSA (31 U.S.C. 3551) and the U.S. Claims Court (28 U.S.C. 1491(a)(3) or the Federal District Courts (28 U.S.C. 1331). Federal leases are interpreted by the various agency boards of contract appeals of the U.S. Claims Court (41 U.S.C. 601 et seq.; 28 U.S.C. 1491(a)(1) and (2)).

Funding for leases (and all contracts) is subject to the Anti-Deficiency Act, 31 U.S.C. 1341(a).

- OMB Circular A-11, Budget Appendices A and B require advance budget authority for capital leases.

- Contract Award Publication A synopsis of all contract awards over \$25,000 (for the full term of the lease) must be published in the Commerce Business Daily. This does not apply to lease amendments.

- Appraisal/Rental Analysis, including GSA Form 387 Except when annual costs are less than \$2,000.

- Government Lease File Requirement Surveys (form) or narrative.
Solicitation for Offers.
Negotiation record, including negotiation objectives with supporting bases.
Completely executed copy of lease. Prior to contract clearance, lease is executed by lessor only. Agency warranted lease contracting officer executes after approval by contract clearance officials.

- Utilization of Women-Owned Business Concerns Contracts over \$25,000 annually.

- Employment of the Handicapped Contracts of \$2,500 or more.

- Equal Employment Opportunity (when applicable under the ISDA) ≥50 employees and \$10,000 in contracts requires certifications and representations.

- Equal Employment Opportunity (when applicable under the ISDA) Contracts >\$1 million; on site compliance reviews required prior to award.

STANDARD FORM 2
FEBRUARY 1965 EDITION
GENERAL SERVICES
ADMINISTRATION
FPR (41 CFR) 1-16.601

U.S. GOVERNMENT
LEASE FOR REAL PROPERTY

DATE OF LEASE

LEASE NO.

THIS LEASE, made and entered into this date by and between

whose address is

and whose interest in the property herinafter described is that of

hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WITNESSETH: The parties hereto for the consideration hereinafter mentioned, covenant and agree as follows:

1. The Lessor hereby leases to the Government the following described premises

to be used for

2. TO HAVE AND TO HOLD the said premises with their appearances for the term beginning on

_____ through _____ subject to termination and
renewal rights as may be hereinafter set forth.

3. The government shall pay the Lessor annual rent of \$ _____
at the rate of \$ _____ per _____

in arrears.

Rent for a lesser period shall be prorated. Rent checks shall be made payable to:

4. The Government may terminate this lease at any time by giving at least _____ days notice in writing to the
Lessor and no rental shall accrue after the effective date of termination. Said notice shall be computed commencing with the
day after the date of mailing.

5. This lease may be renewed at the option of the Government, for the following terms and at the following rentals:

provided notice to be given in writing to the Lessor at least _____ days before the end of the original lease term or any
renewal term; all other terms and conditions of this lease shall remain the same during any renewal term.
Said notice shall be computed commencing with the day after the date of mailing.

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

6. The Lessor shall furnish to the Government, as part of the rental consideration, the following:

7. The following are attached and made a part hereof:

8. The following changes were made in this lease prior to its execution:

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.
LESSOR

BY

(Signature)

(Signature)

IN PRESENCE OF

(Signature)

(Address)

UNITED STATES OF AMERICA

GENERAL SERVICES ADMINISTRATION

BY

(Signature)

Contracting Officer

(Official title)

STANDARD FORM 2

K

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

APPENDIX K

REQUEST FOR TRANSFER OF EXCESS REAL AND RELATED PERSONAL PROPERTY	1. GSA CONTROL NO.	PAGE OF PAGES	THIS BLOCK FOR USE BY AGENCY RECEIVING REQUEST
	2. DATE OF REQUEST		DATE REQUEST RECEIVED
3. TO (Name, address and ZIP Code of agency being requested to transfer the property)	4. FROM (Name, address and ZIP Code of agency requesting transfer of the property)		HOLDING AGENCY NO. (If any)
			ACQUISITION COST \$
			APPRAISED FAIR MARKET VALUE \$
			REIMBURSEMENT \$
5. REQUESTING AGENCY'S REPRESENTATIVE TO BE CONTACTED FOR FURTHER INFORMATION (Name, address and ZIP Code)		6. PROPERTY IDENTIFICATION AND ADDRESS (Include ZIP Code)	
REAL PROPERTY REQUESTED			
A. STRUCTURES			B. LAND
USE (a)	NUMBER OF BUILDINGS (b)	FLOOR AREA (Sq. Ft.) (c)	GOVERNMENT'S INTEREST (a)
			AREA (Acres or Sq. Ft.) (b)
(1) OFFICE			(1) FEE
(2) STORAGE			(2) LEASED
(3) OTHER (Specify)			(3) OTHER (Specify)
(4) TOTAL			(4) TOTAL
8. RELATED PERSONAL PROPERTY REQUESTED			9. ARE FUNDS AVAILABLE FOR REIMBURSEMENT FOR THE TRANSFER OF THIS PROPERTY? __Yes __No
10. CERTIFICATION Certification is hereby made that this agency has a need for the property identified above to carry on an approved program; that the transfer thereof to this agency for the purposes indicated would be in accord with the intent of the Congress with respect to that program; that the requirement cannot be satisfied by better use of this agency's existing property; and that the proposed land use is consistent with FPMR 101-47.201-1 and 201-2. The statement of justification under block 11 below for the transfer of the property requested is complete and accurate.			
SIGNATURE		TITLE	DATE
11. STATEMENT OF JUSTIFICATION (This statement must include data with respect to all factors covered in FPMR 101-47.4904-1(c) Block 11, Instructions for Preparation of GSA Form 1334)			

(If required, use an additional 8x10 1/2 sheet)

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

APPENDIX K

DI-104
(Rev. 6/88)

UNITED STATES DEPARTMENT OF THE INTERIOR TRANSFER OF PROPERTY			Page _____ of _____	
			Report No.	
			Date	
Transfer From:(Organization and Complete Address)			Transfer To:(Organization and Complete Address)	
Appropriation and Accounting Data:				
ITEM NO.	QUANTITY OR PROPERTY ID NO.	ITEM DESCRIPTION <i>(Include model & serial number)</i>	ORIGINAL ACQUISITION COST (OAC)	CONDITION CODE
SHIPPING AND RECEIVING INFORMATION				
Date Shipped:		Date Received:		
Authorized Signature:		Authorized Signature:		
Official Title:		Official Title:		
Adjustment to property records (Property Official Signature):		Date Completed	Financial Official Signature (if Required):	Date Completed

*U.S. GPO:
1988-673-01-017/96054

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

APPENDIX K

DEPARTMENT OF HEALTH AND HUMAN SERVICES					1. DATE OF REQUEST	
REQUEST FOR PROPERTY ACTION						
2. REQUESTING OFFICE, ROOM NO. & TELEPHONE NO.			3. CUSTODIAL LOCATION		4. CAN NO. & ADMIN. CODE	
5. ACTION REQUESTED <i>(Turn-in, receipt, transfer, disposition instructions) Explain in detail.</i>						
SERIAL NO. OR DECAL NO. 6.	DESCRIPTION AND STOCK NUMBER 7.	QUANTITY 8.	UNIT 9.	CONDITION 10.	UNIT COST 11.	TOTAL COST 12.
13. NAME OF INITIATOR <i>(Type or print)</i>			SIGNATURE OF INITIATOR			DATE
14. NAME OF RECEIVING OFFICIAL <i>(Type or print)</i>				16. CUSTODIAL FILE UPDATED: INITIALS OF ACCOUNTABLE OFFICER		DATE
SIGNATURE OF RECEIVING OFFICIAL			DATE		17. CUSTODIAL FILE UPDATED: INITIALS OF ACCOUNTABLE OFFICER	
15. NAME OF ACCOUNTABLE OFFICER <i>(Type or print)</i>						DATE
SIGNATURE OF ACCOUNTABLE OFFICER			DATE		18. VOUCHER NUMBER	

HHS-22 (REV. 10/94)

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

INSTRUCTIONS FOR COMPLETING HHS-22

Block #

1. Date of your request.
2. Identify your organization by name, location by room number, and your telephone number.
3. Your custodial area/location code.
4. Your common accounting number and your administrative code.
5. Specify what you want to have done.
6. Serial number or local decal number. If neither, leave blank. **DO NOT COMBINE MACHINES AND FURNITURE.**
7. Complete nomenclature of the item(s) stock number, model number, etc. It is necessary to adequately describe the items to insure identification.
8. Number of units.
9. Unit of issue; each, set, pkg., etc.
10. Condition code. See below.
11. and 12. From the file of best estimate. Accountable officer should verify.
13. Print/type name of Custodial Officer. Sign and date.
14. To be completed by individual receiving property. Print/type name; sign and date.
15. Signature of Accountable Officer or authorized representative.
- 16 and 17. To be initialed by the Accountable Officer when action has been posted to appropriate account.
18. To be assigned by the Accountable Officer.

.....
Condition Codes (Column 10)

Disposal Condition Code	Brief Definition	Expanded Definition
1	Unused-good.....	Unused property that is usable without repairs and identical or interchangeable with new items from normal supply sources.
2	Unused-fair.....	Unused property that is usable without repairs, but is deteriorated or damaged to the extent that utility is somewhat impaired.
3	Unused-poor.....	Unused property that is usable without repairs, but is considerably deteriorated or damaged. Enough utility remains to classify the property better than salvage.
4	Used-good.....	Used property that is usable without repairs and most of its useful life remains.
5	Used-fair.....	Used property that is usable without repairs, but is somewhat worn or deteriorated and may soon require repairs.
6	Used-poor.....	Used property that may be used without repairs, but is considerably worn or deteriorated to the degree that remaining utility is limited or that major repairs may soon be required.
7	Repairs required-good.....	Required repairs are minor and should not exceed 15 percent of original acquisition cost.
8	Repairs required-fair.....	Required repairs are considerable and are estimated to range to 16 percent to 40 percent of original acquisition cost.
9	Repairs required-poor.....	Required repairs are major because property is badly damaged, worn, or deteriorated, and are estimated to range from 41 percent to 65 percent of original acquisition cost.
X	Salvage.....	Property has some value in excess of its basic material content, but repair or rehabilitation to use for the originally intended purpose is clearly impractical. Repair for any use would exceed 65 percent of the original acquisition cost.
S	Scrap.....	Material that has no value except for its basic material content.

Distribution:

- Original and 2 - To Accountable Officer
 1 Copy - To Receiving Office
 1 Copy - Hold

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

APPENDIX K

STANDARD FORM 122 June 1974 GENERAL SERVICES ADMINISTRATION FPMR (41 CFR) 101-32.306 FPMR (41 CFR) 101-43.315	TRANSFER ORDER EXCESS PERSONAL PROPERTY	1. ORDER NO. 2. DATE				
3. TO: GENERAL SERVICES ADMINISTRATION*		4. ORDERING AGENCY (<i>Full name and address</i>)*				
5. HOLDING AGENCY (<i>Name and address</i>)*		6. SHIP TO (<i>Consignee and destination</i>)*				
7. LOCATION OF PROPERTY		8. SHIPPING INSTRUCTIONS				
9. ORDERING AGENCY APPROVAL		10. APPROPRIATION SYMBOL AND TITLE				
A. SIGNATURE	B. DATE					
C. TITLE		11. ALLOTMENT				
12. GOVERNMENT B/L NO.						
13. PROPERTY ORDERED						
GSA AND HOLDING AGENCY NOS. (a)	ITEM NO. (b)	DESCRIPTION <i>(include noun name, FSC Group and Class, Condition Code and, if available, National Stock Numbers)</i> (c)	UNIT (d)	QUANTITY (e)	ACQUISITION COST UNIT (f) TOTAL (g)	
14. GSA APPROVAL		A. SIGNATURE		B. TITLE		C. DATE
FOR GSA USE ONLY	AGENCY AND LOCATION		FSC	COND ITION	SOURCE CODE	
	AGENCY STATE					

*Include ZIP Code

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

APPENDIX K

THE UNITED STATES GOVERNMENT CERTIFICATE OF RELEASE OF A MOTOR VEHICLE <small>(See instructions on reverse)</small>	CERTIFICATE NO.
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The undersigned DEPARTMENT or AGENCY of the UNITED STATES GOVERNMENT certifies that the motor vehicle described herein, the property of the UNITED STATES GOVERNMENT, has been transferred this _____ day of _____ 19____, to the Transferee designated herein; and that this is the first transfer of such vehicle in ordinary trade and commerce subsequent to acquisition thereof by the UNITED STATES GOVERNMENT.

TRANSFEREE (Name of dealer, individual, etc.)			ADDRESS OF TRANSFEREE (Please include ZIP code)		
TRANSFEROR (Accountable office; i.e., department or agency; subunits and address, including ZIP code)					
MAKE OF VEHICLE	YEAR	SERIES OR MODEL	ENGINE NO. †	MANUFACTURER'S SERIAL NO.	
TYPE OF VEHICLE*			KIND OF BODY+		
NUMBER OF CYLINDERS	HP. (SAE) †	FUEL	NUMBER OF AXLES †	NUMBER OF DUAL WHEELS †	TIRES <input type="checkbox"/> SOLID <input type="checkbox"/> PNEUMATIC
WEIGHT (Shipping)		NO. OF PASSENGERS †	WHEELBASE †	MANUFACTURER'S RATED CAPACITY	SALE PRICE

ODOMETER MILEAGE STATEMENT

Federal Regulations require you to state the odometer mileage upon transfer of ownership. An inaccurate or untruthful statement may make you liable for damages to your transferee, for attorney fees, and for civil or criminal penalties, pursuant to Sections 409, 412, and 413 of the Motor Vehicle Information and Cost Savings Act of 1972 (Public Law 92-513, as amended by Public Law 94-364). I, _____ state that to the best of my knowledge, based upon United States Government records, the odometer of the vehicle described above reads _____ miles/kilometers.

CHECK ONE BOX ONLY:

- 1. I HEREBY CERTIFY that to the best of my knowledge, the odometer reading as stated above reflects the actual mileage of the vehicle described above.
- 2. I HEREBY CERTIFY that to the best of my knowledge, the odometer reading as stated above reflects the amount of mileage in excess of designed mechanical odometer limit of 99,999 miles/kilometers of the vehicle described above, and should not be relied upon.
- 3. I HEREBY CERTIFY that to the best of my knowledge, the odometer reading as stated above is not the actual mileage of the vehicle described above, and should not be relied upon.

CHECK ONE BOX ONLY:

- 4. I HEREBY CERTIFY that to the best of my knowledge, the odometer of said vehicle was not altered, set back, or disconnected while in my possession and I have no knowledge of anyone else doing so.
- 5. I HEREBY CERTIFY that to the best of my knowledge, the odometer was altered for repair or replacement purposes while in my possession, and that the mileage registered on the repaired or replacement odometer was identical to that before such service.
- 6. I HEREBY CERTIFY that to the best of my knowledge, the repaired or replacement odometer was incapable of registering the same mileage, that it was reset to zero, and that the mileage on the original odometer or the odometer before repair was _____.

SIGNATURE OF TRANSFEROR'S (Seller's) REPRESENTATIVE	TITLE	DATE
SIGNATURE OF TRANSFEREE (Buyer)		DATE

* Automobile, station wagon, ambulance, truck-motor or tractor, trailer, semitrailer, bus, motorcycle, motor scooter, etc.
 + Automobile-coupe, two- or four-door sedan, truck-pickup, panel, van, cargo, stake, platform, trailer-pole, dolly, cable reel, bogie, tank (give capacity) etc.
 † Where applicable. See instructions on reverse.

STANDARD FORM 97 (REV. 7-79)
 Prescribed by GSA FPMR (41 CFR) 101-3B-701
 Previous Edition Not Useable

NSN 754D-DD-634-4047 97-106

INSTRUCTIONS

1. This certificate of release, to include the Odometer Mileage Statement, constitutes an official transfer of the vehicle described hereon, and formally evidences its release from the custody of the United States Government to the designated transferee.
2. The filing of this certificate shall be governed by the requirements of applicable local law.
3. The information required on the Certificate of Release, to include the Odometer Mileage Statement, shall be furnished in all applicable spaces. An incomplete form, particularly an inadequate description, may delay the issuance of a State title.
4. All certificates and copies shall be numbered consecutively by the using agency, such numbers to be typed or overprinted on all copies in the certificate number space provided.
5. The completed certificate, to include the Odometer Mileage Statement, shall be available to the transferee concurrently with the release of the vehicle.
6. Items of description, designated by a double dagger, are to be used only where applicable. they do not apply to all types of vehicles. Examples are as follows: number of dual wheels applies only to trucks; SAE horsepower, wheelbase, and engine number are required by some States; number of passengers applies only to motorbus capacity; etc.

**GENERAL SERVICES ADMINISTRATION
SCREENER'S IDENTIFICATION**

PHOTO	_____ SCREENER'S NAME
	_____ SCREENER'S ORGANIZATION
	_____ SCREENER'S SIGNATURE
	_____ SPONSORING AGENCY

**NOT VALID TO IDENTIFY
A FEDERAL EMPLOYEE**

GSA FORM 2946 (REV. 10-77)

SIGNATURE OF SPONSORING AGENCY OFFICIAL

This Card Holder is authorized to screen and select personal property subject to the constraints here- on indicated.	_____ CARD NUMBER	_____ EXPIRATION DATE
	_____ AUTHORIZED SCREEN- ING AREA	_____ AUTHORIZED PROGRAM
_____ SIGNATURE OF GSA OFFICIAL		_____ REGION

**IF FOUND, DROP IN ANY P.O. MAILBOX FOR RETURN TO:
GENERAL SERVICES ADMINISTRATION, WASHINGTON, DC 20408
TO BE SURRENDERED TO ISSUING OFFICER UPON EXPIRATION OR
TERMINATION OF AUTHORIZATION.
PROPERTY OF U.S. GOVERNMENT**

GSA FORM 2946 BACK (REV. 10-77)

L

HOW A CLAIM IS HANDLED UNDER THE FTCA (Step-by-Step Narrative, Flow Chart, and Brief Description)

Administrative and Judicial FTCA Claims Process

Administrative Stage

Tort claims under the FTCA must be presented, in writing, to the appropriate Federal agency (HHS or DOI) within two years after the claim arises. If the claim is not filed during this specified two-year period, the window of opportunity will close, and the claim can never be filed. Filed tort claims can produce three different results. The claim can be denied, the claim can remain undecided, or the claim can be settled out of court.

Once a claim has been filed, the Federal agency then has six months in which to make a decision on the claim. During this six-month time period, unless the filer of the claim (claimant) receives a final denial, the claimant cannot file suit in Federal court. If a final denial is received from the Federal agency, the claimant has only six months from the certified or registered date on the denial letter to file suit in a Federal district court.

The claimant also has the option to request that the final denial be reviewed again, as long as the request to review again or reconsider the claim is presented to the Federal agency within six months of the postmark date of the denial letter (only one request for reconsideration is allowed). If a request for reconsideration is filed within the required time period, the Federal agency has six months to reconsider the claim and make a final determination on the claim. During the six-month reconsideration period, the claimant may not file suit. If the Federal agency does not deny the claim in writing, and the claim has been undecided for more than six months, the claimant may consider the claim denied and file suit in a Federal district court.

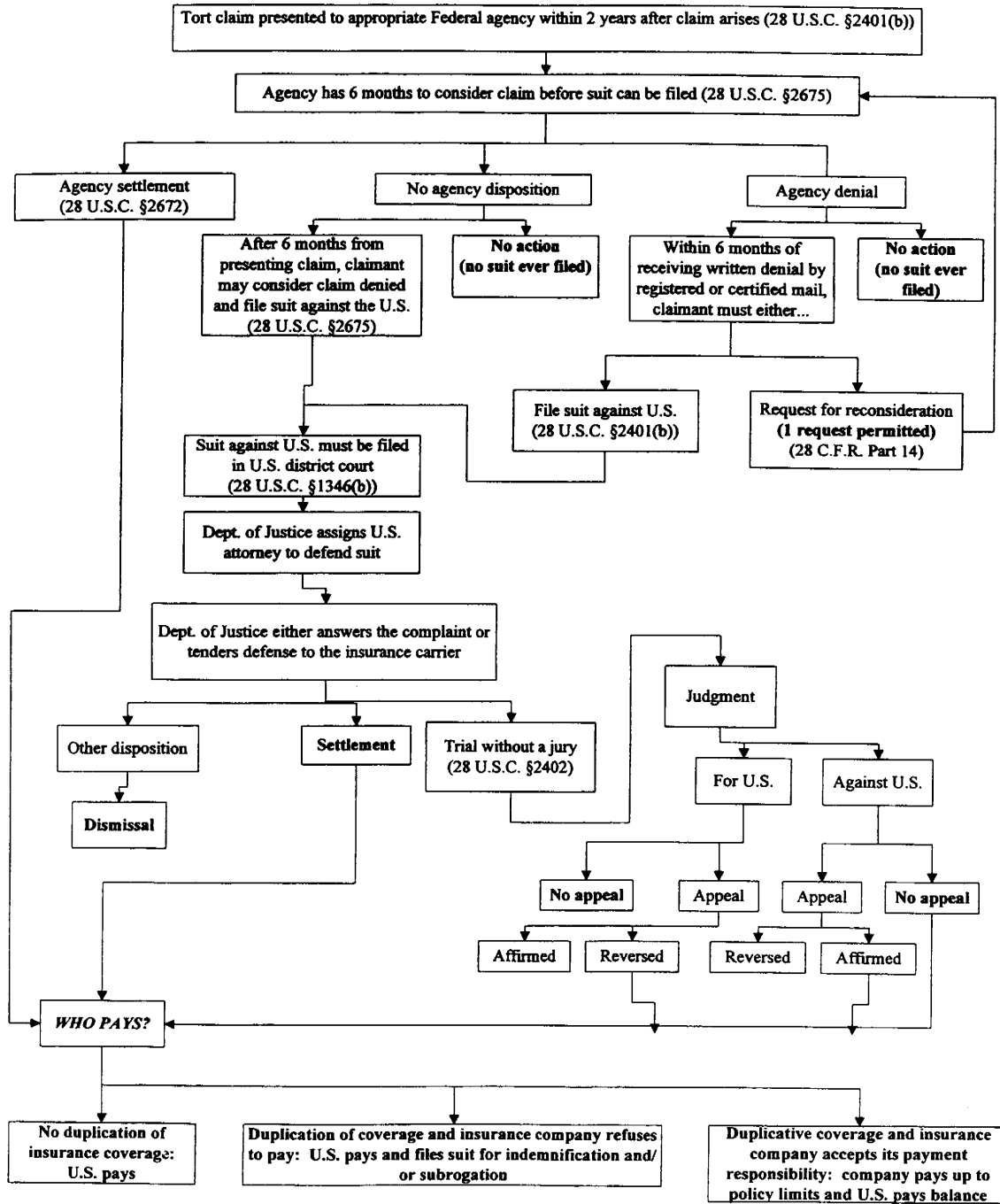
The third possible outcome for a claim is administrative settlement. If the claim is settled at an amount less than \$25,000, the Federal agency with which the claim was filed has the authority to approve the settlement. If the claim is to be settled at an amount greater than \$25,000, the Department of Justice must approve the claim.

Judicial Stage

In either the case of the denial of a claim or when no determination is made on a claim, and the claimant decides to file suit in a Federal district court, the Department of Justice assigns an attorney to defend the suit. The U.S. attorney will certify that the case is within the scope of FTCA coverage. If the case is within the scope of FTCA coverage, the trial will go forward. The outcome of the suit will either be settlement, dismissal of the suit before a judgment is given (for example, if the claim was not filed properly), or there will be a trial without a jury from which a judgment will result.

The next step in this process is to determine who will pay the judgment, the Federal Government or the private insurance company. If it is determined that there is no duplicative insurance coverage, the U.S. Government pays the judgment. If there is duplicative private insurance coverage, the insurance company will pay up to the insurance policy limit and the U. S. Government will pay the judgment and file suit against the insurance company for indemnification and/or subrogation.

ADMINISTRATIVE AND JUDICIAL FTCA CLAIMS PROCESS
FLOW CHART



ADMINISTRATIVE AND JUDICIAL FTCA CLAIMS PROCESS

Federal Tort Claims Act (FTCA) Administrative Claims Process

1. A tort claim against the United States must be presented, in writing, to the appropriate Federal agency within two (2) years after the claim arises or it is time barred (i.e., it can never be filed) 28 U.S.C. §2401(b)
2. The Federal agency has six (6) months within which to make a decision on the claim. Unless the claimant receives a final denial, the claimant cannot file suite in Federal court during the six-month period. 28 U.S.C. §2675.
3. If a final denial is received, claimant must file suit within six (6) months from the certified or registered mail date of the denial letter. 28 U.S.C. §2401(b).

Claimant also has the option to request reconsideration of the final denial, provided the request for reconsideration is presented to the Federal agency within six (6) months of the date of mailing of the final denial. 28 C.F.R. Part 14.

Upon timely filing of a request for reconsideration, the Federal agency shall have six (6) months in which to reconsider and make a final determination on the claim; claimant may not file suit during the six-month period.

4. If the Federal agency does not deny the claim, in writing, and the claim has been pending for more than six (6) months, the claimant may consider the claim to be denied and file suite in Federal district court. 28 U.S.C. §2675.

M

TRAINING CORE CURRICULUM

TRAINING OBJECTIVES

- To ensure that agency employees charged with duties and responsibilities under the ISDA conduct those duties and responsibilities in a manner that facilitates the contracting processes provided for in the ISDA
- To ensure that agency employees receive high quality instruction to better perform their self-determination related duties
- To provide appropriate training for those agency employees who will be involved in administering self-determination programs and who will be involved in developing and executing contracts or agreements with T/TOs to implement title I of the ISDA.

CURRICULUM

- 1. A FUNDAMENTAL OBJECTIVE OF THE ISDA IS TO INCREASE THE ABILITY OF TRIBES OR TRIBAL ORGANIZATIONS TO PLAN AND DELIVER SERVICES APPROPRIATE TO THE NEEDS OF TRIBAL MEMBERS (DISCUSSION)**
- 2. BASIC PRINCIPLES OF THE ISDA, AS ENACTED IN 1975, EXAMPLES INCLUDE:**
 - Tribal governing body as the sole authority
 - No compulsory requirements on T/TOs to contract
 - ISDA directs government to contract upon request of a T/TO - burden of proof is on the government to say no
 - Reaffirms government trust responsibility and guarantees right of retrocession
 - Describe options open to T/TOs under the ISDA
 - Describe contractible programs under the ISDA

**TRAINING CORE CURRICULUM
(continued)**

3. DISCUSSION OF MAJOR AMENDMENTS TO THE ISDA - SIGNIFICANT CHANGES INCLUDE:

- Expansion of contract opportunities
- New definition of ISDA contracts
- Mature contracts - calendar year contracts
- FTCA coverage
- Property donation
- CSCs defined
- Introduction of self-governance option
- Negotiated rulemaking - joint rule
- Model Agreement

4. PART 900 REGULATIONS TO INCLUDE:

- History of development of regulations, how? Who? Process, etc.
- Congressional and Secretarial Policy Statements
- Review and discussion of each subpart over 2-3 day period
- Discussion of technical assistance
- Declination Procedures and 90 days

**TRAINING CORE CURRICULUM
(continued)**

5. PROCEDURAL HANDBOOK

- Review and discussion of each chapter in conjunction with regulations review as appropriate to suit audience

EVALUATION

- Pre and post test consisting of approximately 60 questions on significant areas of the ISDA, the regulations, and the Handbook
- Participants will be surveyed at each training session to evaluate the course content, the training methodology, and the trainer

B. Clearance from Office of Audit's System

Reports formally issued or processed by the Office of Audit are given an audit control number and entered into its monitoring system. These audit reports are cleared in the Office of Audit's system by submission and acceptance of Audit Clearance Documents (ACDs).

1. Preparation of Audit Clearance Documents

a. After the Action Official has negotiated or determined a resolution of a finding(s), including any monetary recoveries to be made, he/she prepares the ACD in accordance with Chapter 4 of the Office of Audit's Procedures Handbook.

b. Even though the Action Official's determination may be appealed, the ACD should be prepared and submitted when the original determination is made. If an appeal results in changes to the information on the original ACD, an amended ACD for the items that are changed must be prepared and submitted. The amended ACD must clearly state the nature of the change and how it affects the original ACD. The amended ACD must be processed in the same manner as the original ACD except that General Counsel clearance is not required for changes caused by Appeals Board decisions.

c. As described more fully in the Office of Audit's Procedures Handbook, the Audit Clearance Document must include, as appropriate:

(1) The resolution of each monetary finding;

(2) A brief but informative description of the action taken or planned to correct each deficiency;

(3) Milestones and target dates where several steps need to be taken to correct deficiencies;

(4) A concise explanation of the basis for any nonconcurrence with a finding in the audit report as well as any deviation from a position previously taken on a Prerelease Notification Document;

(5) Office of General Counsel clearance whenever a disagreement with an audit finding is based on an interpretation of a law, rule or regulation

which is different than the interpretation used by the auditor to support the finding; and

(6) Identification of the official who approved the agreement/determination letter (if different than the Approving Official who signs the ACD) and the date such approval was made.

d. As discussed in Section 1-105-110, ACDs also serve as the source documents for entering audit disallowances into the OPDIVs' accounting systems. Accordingly, ACDs, where possible, must identify the appropriation number, the common accounting number, and the grant, contract or cooperative agreement number to which the disallowance applies.

2. Processing Audit Clearance Documents

After the Audit Clearance Document is completed and signed by the Action Official, it must be reviewed and countersigned by the designated Approving Official: cleared, if necessary, by the Office of General Counsel by indication of "concurrence" or "nonconcurrence" and signature; and transmitted to the Audit Liaison Office. The original and two copies of satisfactory ACDs must be submitted by the Audit Liaison Office to the Office of Audit's Division of Audit Coordination, with copies to all HHS parties shown on the audit report distribution schedule. When applicable, a copy must also be provided to the appropriate finance office(s).

C. Clearance from OPDIV Systems

As discussed in Section 1-105-120, the Office of Audit's monitoring system tracks audit findings up to the point that decisions are reached on the amount of any funds to be recovered and agreements are reached on action to correct deficiencies and an ASMB system tracks completion of corrective actions on selected audit reports. However, OPDIV monitoring systems must track all findings until implementation of corrective actions has been confirmed. Accordingly, Action Officials must notify the Audit Liaison Office when such verification has been made.

1-105-110 Collection of and Accounting For Disallowances and Recoveries and (Including Interest Charges)

- A. All audit disallowances must be accounted for, collected and controlled in accordance with the policies and procedures issued by the Office of the Deputy Assistant Secretary, Finance (DASF). These policies and procedures are summarized below, but readers are cautioned to refer to the actual DASF policies and procedures for authoritative information.**

- B. All disallowances must be entered into the OPDIV's, STAFFDIV's and Region's formal accounting records based on information contained in the Audit Clearance Documents submitted to the Office of Audit and/or the agreement/determination letter. Accounting control must be maintained thereafter. Consequently, Audit Liaison Offices (or OPAL) must provide timely notice to appropriate finance offices whenever events occur which affect the status of the disallowances. Examples of the documents that should be submitted and events that should be reported are as follows:**
 - 1. A copy of the ACD and the agreement/determination letter;**
 - 2. Any non-acceptance of an Audit Clearance Document by the Office of Audit;**
 - 3. The filing of an appeal;**
 - 4. The expiration of the appeal period without appeal; and**
 - 5. Details of the final results of an appeal.**

- C. Checks for the amount of the disallowances, together with interest computed in accordance with Subsection F of this Section (if payment is not made within 30 days of the agreement/determination letter) should be sent directly to the appropriate OPDIV, ASMB or Regional finance office. If permitted by DASF procedures, the Action Official may obtain the repayment check. In these cases, the check must be immediately transmitted to the appropriate finance office.**

- D. Follow-up notices and billings will be sent to the debtor organization by the appropriate finance office (or offsets-by negative grant awards-will be made under the Public Assistance Programs where this action is mandated by statute) within 30 days of the issuance of the Action Official's agreement/determination letter described in Subsection 1-10540E. Reminder notices will confirm the due**

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date for payment as being 30 days from the date of that letter. If the organization is unable to pay the full amount by the due date, an extended payment plan may be negotiated. Extended payment plans must be developed by, or in conjunction with, the appropriate finance office and confirmed in a written agreement.

E. If the organization appeals the Action Official's determination, collection actions will be suspended pending a final decision on the appeal, unless otherwise requested by the organization. However, the organization should be notified that if the disallowance is sustained (fully or partially), interest will be charged for the full period stated in Subsection F.

F.

1. As required by the Federal Claims Collection Standards (4 CFR Parts 101-105) and OMB Circular A-50, interest will be charged on the amount of a disallowance which is unpaid as of the "due date". The "due date" shall be 30 days from the date of the Action Official's agreement/determination letter. (It should be noted that the "due date" for repayment of a disallowance relates to the Action Official's agreement/determination letter; it is not extended by the filing of any form of appeal.)*
2. Interest charges on late payments will be computed at the prevailing rate prescribed under Part 6 (Paragraph 8020.20) of the Department of Treasury Fiscal Requirements Manual** for each 30-day period or portion thereof that the payment is late. If the disallowances will be paid in installments (under an extended payment plan), the interest charges will be based on the Department of Treasury's monthly "Schedule of Certified Interest Rates with Range of Maturities".*

*In some cases statutory or other provisions may apply. For example, Section 1 03(d)(5) of the Social Security Act provides for interest in State disputes over Medicaid disallowances to begin at the date of the disallowance determination and to be computed at a rate based on the average of the bond equivalent of the weekly 0-day Treasury bill auction rates during the dispute resolution period.

**The interest rate is transmitted quarterly by the Department of Treasury in a Treasury Fiscal Requirements Manual bulletin issued prior to the start of each quarter.

1-105-120 Internal Monitoring and Reporting

The audit resolution process shall be managed and controlled by the OPDIVs and monitored by the Department to assure that resolutions and collection of disallowances are appropriate, timely, comprehensive, and consistent.

A. OPDIV Monitoring and Reporting

1. Designation of Audit Liaison Offices and Approving Officials

a. Each OPDIV shall formally designate an Audit Liaison Office which must be located within its central administrative office. These Audit Liaison Offices shall be responsible for:

(1) Maintaining a system which tracks each audit finding from the date an audit report is received through final verification of adequate implementation of corrective actions on deficiencies;

(2) Monitoring the timeliness and adequacy of the OPDIV's audit resolution activities;

(3) Distributing all Audit Clearance Documents; and operating a quality control system over the adequacy of the documents as well as Prerelease Notification Documents; and

(4) Preparing or providing information for quarterly reports to ASMFS, the Office of Audit and the DASF on audit resolution and collection activities and such other reports as may be required by the Department.

b. Each OPDIV shall also formally designate Approving Officials for Prerelease Notification Documents, agreement/determination letters, and Audit Clearance Documents. Approving Officials for Prerelease Notification Documents and Audit Clearance Documents shall be at least one level higher than the Action Official. Approving Officials for agreement/determination letters must satisfy the following minimum standards.

(1) If an audit exception exceeds 5100,000, any proposed resolution of that exception which is less than ~ 5% of the amount recommended by the auditor must be approved by the OPDIV Head or his/her first line Deputy for operations.

(2) All other proposed resolutions must be approved by officials no lower than the OPDIV bureau chief or senior program manager (who can be the OPDIV's top regional commissioner or administrator) ultimately accountable to the Secretary and the Congress for the operational management of the program to which the audit applies.

(3) These approvals must take place before any formal notification of agreements or determination actions are transmitted to audited organizations.

(4) If this official is not also the Approving Official on the ACD, the ACD must identify the official who approved the agreement/determination and the date of that approval.

2. Adequacy of Individual Resolution Actions

Audit Liaison Offices and Approving Officials shall perform meaningful reviews of Prerelease Notification Documents, Audit Clearance Documents, and agreement/determination letters, to assure that they are complete and that the actions or positions taken are appropriate, effective and consistent.

3. Reporting

a. At a minimum, each Action Official shall submit quarterly reports to the Audit Liaison Office and senior OPDIV management on the actions taken to resolve significant findings and the status of each open finding. These reports must be adequately reviewed and appropriate steps taken to improve performance where warranted.

b. Audit Liaison Offices shall submit quarterly reports to the Office of Audit on the resolution status of significant open findings designated by the Office of Audit and to ASMB on the status of implementation of corrective actions, and shall submit such other reports as the Department may require.

c. Agency Finance Offices and/or Audit Liaison Offices shall submit quarterly reports to the Deputy Assistant Secretary, Finance on the collection status of audit disallowances, as required by Departmental policies and procedures.

B. Departmental Monitoring and Reporting

1. Audit Resolution Council

The Departmental Audit Resolution Council is responsible for exercising executive level oversight of the Department's audit resolution activities. The composition and specific functions of the Council are described in Subsection 1-105-20B.

2. Office of Audit, Office of Inspector General

The Office of Audit monitors the overall audit resolution performance of the Department by:

a. Maintaining a Department-wide management information system which tracks all audit findings until final decisions are made on the amount of funds to be recovered and the actions to be taken by recipient organizations to correct deficiencies;

b. Evaluating the adequacy of Audit Clearance Documents and obtaining General Counsel review of resolutions which appear inappropriate;

c. Performing follow-up audits on selected audit reports to determine if recipient organizations have adequately implemented corrective measures and if Action Officials have performed adequately;

d. Obtaining and reviewing quarterly reports on the resolution status of certain significant audit reports; and

e. Performing internal audits of OPDIV audit resolution activities.

3. Deputy Assistant Secretary, Finance

The DASF monitors the collection status of all monetary audit disallowances by means of the Quarterly Reports discussed in Subparagraph A.3.c of this Section.

4. Office of Procurement, Assistance and Logistics

OPAL assists the Audit Resolution Council and the Office of Audit in obtaining corrections of deficiencies in the audit resolution activities of the

OPDIVs and assists the ASMB in monitoring the Department's audit resolution performance.

5. Office of Management Analysis and Systems

The Office of Management Analysis and Systems monitors the status of implementation of corrective actions and OPDIV performance against various audit resolution goals through the Operations Management System.

6. Reporting

The Inspector General and the Assistant Secretary for Management and Budget submit periodic reports to the Secretary and the Audit Resolution Council on Departmental and OPDIV audit resolution and collection performance.

1-105-130 Management Uses of Audit Information

Audit findings, either individually or collectively, may contain information of value beyond the assessment of recipient organization performance. Trends in these findings, in addition to disclosing problems in the operations of recipient organizations, may also be indicative of deficiencies in the operations or policies of the Government. Accordingly, responsible officials shall be cognizant of these trends, and, where they disclose deficiencies in the Government's operations or policies, shall recommend or initiate prompt corrective actions. Depending on the nature and extent of the deficiencies, these actions may include changes in legislation, regulations, or policies; increased monitoring; improvements in internal procedures and staff training; etc.

**EXECUTIVE OFFICE OF THE PRESIDENT
Office of Management and Budget
Washington, D.C. 20503**

April 12, 1985

Circular No. A-128

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

Subject: Audits of State and Local Governments.

1. **Purpose.** This Circular is issued pursuant to the Single Audit Act of 1984, P.L. 98-502. It establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.
2. **Supersession.** The Circular supersedes Attachment P, "Audit Requirements", of Circular A-102, "Uniform requirements for grants to State and local governments."
3. **Background.** The Single Audit Act builds upon earlier efforts to improve audits of Federal aid programs. The Act requires State or local governments that receive \$100,000 or more a year in Federal funds to have an audit made for that year. Section 7505 of the Act requires the Director of the Office of Management and Budget to prescribe policies, procedures and guidelines to implement the act. It specifies that the Director shall designate "cognizant" Federal agencies, determine criteria for making appropriate charges to Federal programs for the cost of audits, and provide procedures to assure that small firms or firms owned and controlled by disadvantaged individuals have the opportunity to participate in contracts for single audits.
4. **Policy.** The Single Audit Act requires the following:
 - a. State or local governments that receive \$100,000 or more a year in Federal financial assistance shall have an audit made in accordance with this Circular.
 - b. State or local governments that receive between \$25,000 and \$100,000 a year shall have an audit made in accordance with this Circular, or in accordance with Federal laws and regulations governing the programs they participate in.
 - c. State or local governments that receive less than \$25,000 a year shall be exempt from compliance with the Act and other Federal audit requirements. These

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State and local governments shall be governed by audit requirements prescribed by State or local law or regulation.

d. Nothing in this paragraph exempts State or local governments from maintaining records of Federal financial assistance or from providing access to such records to Federal agencies, as provided for in Federal law or in Circular A-102, "Uniform requirements for grants to State or local governments."

5. **Definitions.** For the purposes of this Circular the following definitions from the Single Audit Act apply:

a. **"Cognizant agency"** means the Federal agency assigned by the Office of Management and Budget to carry out the responsibilities described in paragraph 11 of this Circular.

b. **"Federal financial assistance"** means assistance provided by a Federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals. It includes awards received directly from Federal agencies, or indirectly through other units of State and local governments.

c. **"Federal agency"** has the same meaning as the term 'agency' in section 551(1) of title 5, United States Code.

d. **"Generally accepted accounting principles"** has the meaning specified in the generally accepted government auditing standards.

e. **"Generally accepted government auditing standards"** means the Standards for audit of government Organizations, Programs, Activities, and Functions, developed by the Comptroller General, dated February 27, 1981.

f. **"Independent auditor"** means:

(1) a State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or

(2) a public accountant who meets such independence standards.

g. **"Internal controls"** means the plan of organization and methods and procedures adopted by management to ensure that:

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- (1) resource use is consistent with laws, regulations, and policies;
- (2) resources are safeguarded against waste, loss, and misuse; and
- (3) reliable data are obtained, maintained, and fairly disclosed in reports.

h. **"Indian tribe"** means any Indian tribe, band, nations, or other organized group or community, including any Alaskan Native village or regional or village corporations (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

i. **"Local government"** means any unit of local government within a State, including a county, a borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

j. **"Major Federal Assistance program"** as defined by P.L. 98-502, is described in the Attachment to this Circular.

k. **"Public accountants"** means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

l. **"State"** means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, and any multi-State, regional, or interstate entity that has government functions and any Indian tribe.

m. **"Subrecipient"** means any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through a State or local government, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a direct recipient of Federal financial assistance.

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6. Scope of audit. The Single Audit Act provides that:

a. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

b. The audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered federal financial assistance during the year. However, if a State or local government receives \$25,000 or more in General Revenue Sharing Funds in a fiscal year, it shall have an audit of its entire operations. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

c. Public hospitals and public colleges and universities may be excluded from State and local audits and the requirements of this Circular. However, if such entities are excluded, audits of these entities shall be made in accordance with statutory requirements and the provisions of Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations."

d. The auditor shall determine whether:

(1) the financial statements of the government, department, agency or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) the organization has internal accounting and other control system to provide reasonable assurance that it is managing laws and regulations; and

(3) the organization has complied with laws and regulations that may have material effect on its financial statements and on each major Federal assistance program.

7. Frequency of audit. Audits shall be made annually unless the State or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, the cognizant agency shall permit biennial audits, covering both years, if the government so requests. It shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual, but only for fiscal years beginning before January 1, 1987.

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8. Internal control and compliance reviews. The Single Audit Act requires that the independent auditor determine and report on whether the organization has internal control systems to provide reasonable assurance that it is managing Federal assistance programs in compliance with applicable laws and regulations.

a. Internal control review. In order to provide this assurance, the auditor must make a study and evaluation of internal control system used in administering Federal assistance programs. The study and evaluation must be made whether or not the auditor intends to place reliance on such systems. As part of this review, the auditor shall:

(1) Test whether these internal control systems are functioning in accordance with prescribed procedures.

(2) Examine the recipient's system for monitoring subrecipients and obtaining and acting on subrecipient audit reports.

b. Compliance review. The law also requires the auditor to determine whether the organization has complied with laws and regulations that may have a material effect on each major Federal assistance program.

(1) In order to determine which major programs are to be tested for compliance, State and local governments shall identify in their accounts all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies and through other State and local governments.

(2) The review must include the selection and testing of a representative number of charges from each major Federal assistance program. The selection and testing of transactions shall be based on the auditor's professional judgment considering such factors as the amount of expenditures for the program and the individual awards; the newness of the program or changes in its conditions; prior experience with the program, particularly as revealed in audits and other evaluations (e.g., inspections, program reviews); the extent to which the program is carried out through subrecipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

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(a) In making the test of transactions, the auditor shall determine whether:

- the amounts reported as expenditures were for allowable services, and
- the amounts reported as expenditures were for allowable services, and
- the records show that those who receive services or benefits were eligible to receive them.

(b) In addition to transaction testing, the auditor shall determine whether:

- matching requirements, levels of effort and earmarking limitations were met,
- Federal financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared, and
- amounts claimed or used for matching were determined in accordance with OMB Circular A-87, "Cost principles for State and local governments," and Attachment F of Circular A-102, "Uniform requirements for grants to State and local governments."

(c) The principal compliance requirements of the largest Federal aid programs may be ascertained by referring to the Compliance Supplement for Single Audits of State and Local Governments, issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

(3) Transactions related to other Federal assistance programs that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

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9. Subrecipients. State or local governments that receive Federal financial assistance and provide \$25,000 or more of it in a fiscal year to a subrecipient shall:

a. determine whether State or local subrecipients have met the audit requirements of this Circular and whether subrecipients covered by Circular A-110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations," have met that requirement;

b. determine whether the subrecipient spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with this Circular, Circular A-110, or through other means (e.g., program reviews) if the subrecipient has not yet had such an audit;

c. ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;

d. consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

e. require each subrecipient to permit independent auditors to have access to the records and financial statements as necessary to comply with this Circular.

10. Relation to other audit requirements. The single Audit act provides that an audit made in accordance with this Circular shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides Federal agencies with information and assurances they need to carry out their overall responsibilities, they shall rely upon and use such information. However, a Federal agency shall make any additional audits which are necessary to carry out its responsibilities under Federal law and regulation. Any additional Federal audit effort shall be planned and carried out in such a way as to avoid duplication.

a. The provisions of this Circular do not limit the authority of Federal agencies to make, or contract for audits and evaluations of Federal financial assistance programs, nor do they limit the authority of any Federal agency Inspector General or other Federal audit official.

b. The provisions of this Circular do not authorize any State or local government or subrecipient thereof to constrain Federal agencies, in any manner, from carrying out additional audits.

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c. A Federal agency that makes or contracts for audits in addition to the audits made by recipients pursuant to this Circular shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

11. **Cognizant agency responsibilities.** The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of this Circular.

a. The Office of Management and Budget will assign cognizant agencies for States and their subdivisions and larger local government and their subdivisions. Other Federal agencies may participate with an assigned cognizant agency, in order to fulfill the cognizance responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds whether directly or indirectly.

b. A cognizant agency shall have the following responsibilities:

(1) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of this Circular.

(2) Provide technical advice and liaison to State and local governments and independent auditors.

(3) Obtain or make quality control reviews of selected audits made by non-federal audit organizations, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. They should also inform State or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

(5) Advise the recipient of audits that have been found not to have met the requirements set forth in this Circular. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for followup action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

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(6) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits made pursuant to this Circular; so that the additional audits build upon such audits.

(7) Oversee the resolution of audit findings that affect the programs of more than one agency.

12. **Illegal act or irregularities.** If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (See also paragraph 12(a)(3) below for the auditor's reporting responsibilities.) The recipient in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

13. **Audit Reports.** Audit reports must be prepared at the completion of the audit. Reports serve many needs of State and local governments as well as meeting the requirements of the Single Audit Act.

a. The audit report shall state that the audit was made in accordance with the provisions of this Circular. The report shall be made up of at least:

(1) The auditor's report on financial statements and on a schedule of Federal assistance; the financial statements; and a schedule of Federal assistance, showing the total expenditures for each Federal assistance program as identified in the Catalog of Federal Domestic Assistance. Federal programs or grants that have not been assigned a catalog number shall be identified under the caption "other Federal assistance."

(2) The auditor's report on the study and evaluation of internal control systems must identify the organization's significant internal accounting control, and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of the evaluation.

(3) the auditor's report on compliance containing:

-- a statement of positive assurance with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements;

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- negative assurance on those items not tested;
- a summary of all instances of noncompliance; and
- an identification of total amounts questioned, if any, for each Federal assistance award, as a result of noncompliance.

b. the three parts of the audit report may be found into a single report, or presented at the same time as separate documents.

c. all fraud, abuse, or illegal acts or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, should normally be covered in a separate written report submitted in accordance with paragraph 13f.

d. In addition to the audit report, the recipient shall provide comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

e. The reports shall be made available by the State or local government for public inspection within 30 days after the completion of the audit.

f. In accordance with generally accepted government audit standards, reports shall be submitted by the auditor to the organization audited and to those requiring or arranging for the audit. In addition, the recipient shall submit copies of the reports to each Federal department or agency that provided Federal assistance funds to the recipient. Subrecipients shall submit copies to recipients that provided them Federal assistance funds. The reports shall be sent within 30 days after the completion of the audit, but no later than one year after the end of the audit period unless a longer period is agreed to with the cognizant agency.

g. recipients of more than \$100,000 in Federal funds shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports.

h. Recipients shall keep audit reports on file for three years from their issuance.

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14. Audit Resolution. As provided in paragraph 11, the cognizant agency shall be responsible for monitoring the resolution of audit findings that affect the programs of more than one Federal agency. Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternate arrangements may be made on a case-by-case basis by agreement among the agencies concerned.

Resolution shall be made within six months after receipt of the report by the Federal departments and agencies. Corrective action should proceed as rapidly as possible.

15. Audit workpapers and reports. Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant agency or its designee or the General Accounting office, at the completion of the audit.

16. Audit Costs. The cost of audits made in accordance with the provisions of this Circular are allowable charges to Federal assistance programs.

a. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provision of Circular A-87, "Cost principles for State and local governments.

b. Generally, the percentage of costs charged to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient during the fiscal year. The percentage may be exceed, however, if appropriate documentation demonstrates higher actual cost.

17. Sanctions. The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the Act that are not made in accordance with this Circular. In cases of continued inability or unwillingness to have a proper audit, Federal agencies must consider other appropriate sanctions including:

--withholding a percentage of assistance payments until the audit is completed satisfactorily,

--withholding or disallowing overhead costs, and

--suspending the Federal assistance agreement until the audit is made.

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18. Auditor Selection. In arranging for audit services State and local governments shall follow the procurement standards prescribed by attachment O of Circular A-102, "Uniform requirements for grants to State and local governments." the standards provide that while recipients are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by State statutes (e.g., audit services) these statutes will take precedence.

19. Small and Minority Audit Firms. Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of this Circular. Recipients of Federal assistance shall take the following steps to further this goal:

a. Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.

b. Make information on forthcoming opportunities available and arrange timeframes for the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

c. Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms owned and controlled by socially and economically disadvantaged individuals.

d. Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

e. Encourage contracting with consortiums of small audit firms as described in paragraph (a) above when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.

f. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

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20. **Reporting.** Each Federal agency will report to the Director of OMB on or before March 1, 1987, and annually thereafter on the effectiveness of State and local governments in carrying out the provisions of this Circular. The report must identify each State or local government or Indian tribe that, in the opinion of the agency, is failing to comply with the Circular.
21. **Regulations.** Each Federal agency shall include the provisions of this Circular in its regulations implementing the Single Audit Act.
22. **Effective Date.** This Circular is effective upon publication and shall apply to fiscal years of State and local governments that begin after December 31, 1984. Earlier implementation is encouraged. However, until it is implemented the audit provisions of Attachment P to Circular A-102 shall continue to be observed.
23. **Inquiries.** All questions or inquiries should be addressed to Financial Management Division, Office of Management and Budget, telephone number 202/395-3993.
24. **Sunset review date.** This Circular shall have an independent policy review to ascertain its effectiveness three years from the date of issuance.

[Signed]
David A. Stockman
Director

**Definition of Major Program as Provided
in P.L. 98-502**

"Major Federal Assistance Program," for State and local governments having Federal assistance expenditures between \$100,000 and \$100,000,000, means any program for which Federal expenditures during the applicable year exceed the larger of \$300,000 or 3 percent of such total expenditures.

Where total expenditures of Federal assistance exceed \$100,000,000, the following criteria apply:

Total Expenditures of Federal Financial Assistance for ALL Programs		Major Federal Assistance Program Means any Program That EXCEEDS
<u>More Than</u>	<u>But Less Than</u>	
\$100 million	\$ 1 billion	\$ 3 million
\$ 1 billion	\$ 2 billion	\$ 4 million
\$ 2 billion	\$ 3 billion	\$ 7 million
\$ 3 billion	\$ 4 billion	\$10 million
\$ 4 billion	\$ 5 billion	\$13 million
\$ 5 billion	\$ 6 billion	\$16 million
\$ 6 billion	\$ 7 billion	\$19 million
OVER	\$ 7 billion	\$20 million

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OMB CIRCULAR A-128

AUDITS OF STATE AND LOCAL GOVERNMENTS

This Circular is issued pursuant to the Single Audit Act of 1984, P.L. 98-502. It establishes audit requirements for State and local governments and Indian tribes that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.

Provided by:

**Office of Audit and Evaluation
P.O. Box 25007, D-119
Denver, CO 80225-0007**

**Phone: (303) 231-5650
Telefax: (303) 231-5655**

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET**

March 8, 1990

OMB CIRCULAR NO. A-133

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

**SUBJECT: Audits of Institutions of Higher Education and Other Nonprofit
Organizations**

- 1. Purpose.** Circular A-133 establishes audit requirements and defines Federal responsibilities for implementing and monitoring such requirements for institutions of higher education and other nonprofit institutions receiving Federal awards.
- 2. Authority.** Circular A-133 is issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; and Executive Order No. 11541.
- 3. Supersession.** Circular A-133 supersedes Attachment F, subparagraph 2h, of Circular A-110, "Uniform Administrative Requirements for Grants and other Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations."
- 4. Applicability.** The provisions of Circular A-133 apply to:
 - a.** Federal departments and agencies responsible for administering programs that involve grants, cost-type contracts and other agreements with institutions of higher education and other nonprofit recipients.
 - b.** Nonprofit institutions, whether they are recipients, receiving awards directly from Federal agencies, or are sub-recipients, receiving awards directly through other recipients.

These principles, to the extent permitted by law, constitute guidance to be applied by agencies consistent with and within the discretion, conferred by the statutes governing agency action.

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5. Requirements and Responsibilities. The specific requirements and responsibilities of Federal departments and agencies and institutions of higher education and other nonprofit institutions are set forth in the attachment.

6. Effective Date. The provisions of Circular A-133 are effective upon publication and shall apply to audits of nonprofit institutions for fiscal years that begin on or after January 1, 1990. Earlier implementation is encouraged. However, until this Circular is implemented, the audit provisions of Attachment F to Circular A- 110 shall continue to be observed.

7. Policy Review (Sunset) Date. Circular A-133 will have a policy review three years from the date of issuance.

8. Inquiries. Further information concerning Circular A-133 may be obtained by contacting the Financial Management Division, Office of Management and Budget, Washington D.C. 20503, telephone (202) 395-3993.

Richard G. Darman
Director

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**OMB CIRCULAR NO. A-133
AUDITS OF INSTITUTIONS OF HIGHER EDUCATION
AND OTHER NONPROFIT ORGANIZATIONS**

ATTACHMENT

1. Definitions. For the purposes of this Circular, the following definitions apply:

a. "Award" means financial assistance, and Federal cost-type contracts used to buy services or goods for the use of the Federal Government. It includes awards received directly from the Federal agencies or indirectly through recipients. It does not include procurement contracts to vendors under grants or contracts, used to buy goods or services. Audits of such vendors shall be covered by the terms and conditions of the contract.

b. "Cognizant agency" means the Federal agency assigned by the Office of Management and Budget to carry out the responsibilities described in paragraph 3 of this Attachment.

c. "Coordinated audit approach" means an audit wherein the independent auditor, and other Federal and non-federal auditors consider each other's work, in determining the nature, timing, and extent of his or her own auditing procedures. A coordinated audit must be conducted in accordance with Government Auditing Standards and meet the objectives and reporting requirements set forth in paragraph 12(b) and 15, respectively, of this Attachment. The objective of the coordinated audit approach is to minimize duplication of audit effort, but not to limit the scope of the audit work so as to preclude the independent auditor from meeting the objectives set forth in paragraph 12(b) or issuing the reports required in paragraph 15 in a timely, manner.

d. "Federal agency" has the same meaning as the term "agency" in Section 551(l) of Title 5, United States Code.

e. "Federal Financial Assistance."

(1) "Federal financial assistance" means assistance provided by a Federal agency to a recipient or sub-recipient to carry out a program. Such assistance may be in the form of:

- grants;
- contracts;

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- cooperative agreements;
- loans;
- loan guarantees;
- property;
- interest subsidies;
- insurance;
- direct appropriations;
- other non-cash assistance.

(2) Such assistance does not include direct Federal cash assistance to individuals.

(3) Such assistance includes awards received directly from Federal agencies, or indirectly when sub-recipients receive funds identified as Federal funds by recipients.

(4) The granting agency is responsible for identifying the source of funds awarded to recipients; the recipient is responsible for identifying the source of funds awarded to sub-recipients.

f. "Generally accepted accounting principles" has the meaning specified in the Government Auditing Standards.

g. "Independent auditor" means:

(1) A Federal, State, or local government auditor who meets the standards specified in the Government Auditing Standards; or

(2) A public accountant who meets such standards.

h. "Internal control structure" means the policies and procedures established to provide reasonable assurance that:

(1) Resource use is consistent with laws, regulations, and award terms;

(2) Resources are safeguarded against waste, loss, and misuse; and

(3) Reliable data are obtained, maintained, and fairly disclosed in reports.

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i. "Major program" means an individual award or a number of awards in a category of Federal assistance or support for which total expenditures are the larger of three percent of total Federal funds expended or \$100,000, on which the auditor will be required to express an opinion as to whether the major program is being administered in compliance with laws and regulations.

Each of the following categories of Federal awards shall constitute a major program where total expenditures are the larger of three percent of total Federal funds expended or \$100,000:

- Research and Development.
- Student Financial Aid.
- Individual awards not in the student aid or research and development category.

j. "Management decision" means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary.

k. "Nonprofit institution" means any corporation, trust, association, cooperative or other organization which (1) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; (2) is not organized primarily for profit; and (3) uses its net proceeds to maintain, improve, and/or expand its operations. The term "nonprofit institutions" includes institutions of higher education, except those institutions that are audited as part of single audits in accordance with Circular A- 128 "Audits of State and Local Governments." The term does not include hospitals which are not affiliated with an institution of higher education, or State and local governments and Indian tribes covered by Circular A-128 "Audits of State and Local Governments."

l. "Oversight" agency means the Federal agency that provides the predominant amount of direct funding to a recipient not assigned a cognizant agency, unless no direct funding is received. Where there is no direct funding, the Federal agency with the predominant indirect funding will assume the general oversight responsibilities. The duties of the oversight agency are described in paragraph 4 of this Attachment.

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m. "Recipient" means an organization receiving financial assistance to carry out a program directly from Federal agencies.

n. "Research and development" includes all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other nonprofit institutions. "Research" is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

o. "Student Financial Aid" includes those programs of general student assistance in which institutions participate, such as those authorized by Title IV of the Higher Education Act of 1965 which is administered by the U.S. Department of Education and similar programs provided by other Federal agencies. It does not include programs which provide fellowships of similar awards to students on a competitive basis, or for specified studies or research.

p. "Sub-recipient" means any person or government department, agency, establishment, or nonprofit organization that receives financial assistance to carry out a program through a primary recipient or other sub-recipient, but does not include an individual that is a beneficiary of such a program. A sub-recipient may also be a direct recipient of Federal awards under other agreements.

q. "Vendor" means an organization providing a recipient or sub-recipient with generally required goods or services that are related to the administrative support of the Federal assistance program.

2. Audit of Nonprofit Institutions.

a. **Requirements Based on Awards Received.**

(1) Nonprofit institutions that receive \$100,000 or more a year in Federal awards shall have an audit made in accordance with the provisions of this Circular. However, nonprofit institutions receiving \$100,000 or more but receiving awards under only one program have the option of having an audit of their institution prepared in accordance with the provisions of the Circular or having an audit made of the one program. For prior or subsequent years, when an institution has only loan guarantees or outstanding loans that were made previously, the institution may be required to conduct audits for those programs, in accordance with regulations of the Federal agencies providing those guarantees or loans.

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(2) Nonprofit institutions that receive at least \$25,000 but less than \$100,000 a year in Federal awards shall have an audit made in accordance with this Circular or have an audit made of each Federal award, in accordance with Federal laws and regulations governing the programs in which they participate.

(3) Nonprofit institutions receiving less than \$25,000 a year in Federal awards are exempt from Federal audit requirements, but records must be available for review by appropriate officials of the Federal grantor agency or subgranting entity.

b. Oversight by Federal Agencies.

(1) To each of the larger nonprofit institutions the Office of Management and Budget (OMB) will assign a Federal agency as the cognizant agency for monitoring audits and ensuring the resolution of audit findings that affect the programs of more than one agency.

(2) Smaller institutions not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them with the most funds.

(3) Assignments to Federal cognizant agencies for carrying out responsibilities in this section are set forth in a separate supplement to this Circular.

(4) Federal Government-owned, contractor-operated facilities at institutions or laboratories operated primarily for the Government are not included in the cognizance assignments. These will remain the responsibility of the contracting agencies. The listed assignments cover all of the functions in this Circular unless otherwise indicated. The Office of Management and Budget will coordinate changes in agency assignments.

3. Cognizant Agency Responsibilities. A cognizant agency shall:

a. Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of this Circular.

b. Provide technical advice and liaison to institutions and independent auditors.

c. Obtain or make quality control reviews of selected audits made by non-Federal audit organizations, and provide the results, when appropriate, to other interested organizations.

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d. Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. A cognizant agency should also inform State or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

e. Advise the recipient of audits that have been found not to have met the requirements set forth in this Circular. In such instances, the recipient will work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

f. Coordinate, to the extent practicable, audits or reviews made for Federal agencies that are in addition to the audits made pursuant to this Circular, so that the additional audits or reviews build upon audits performed in accordance with the Circular.

g. Ensure the resolution of audit findings that affect the programs of more than one agency.

h. Seek the views of other interested agencies before completing a coordinated program.

i. Help coordinate the audit work and reporting responsibilities among independent public accountants, State auditors, and both resident and non-resident Federal auditors to achieve the most cost-effective audit.

4. Oversight Agency Responsibilities. An oversight agency shall provide technical advice and counsel to institutions and independent auditors when requested by the recipient. The oversight agency may assume all or some of the responsibilities normally performed by a cognizant agency.

5. Recipient Responsibilities. A recipient that receives a Federal award and provides \$25,000 or more of it during its fiscal year to a sub-recipient shall:

a. Ensure that the nonprofit institution sub-recipients that receive \$25,000 or more have met the audit requirements of this Circular, and that sub-recipients subject to OMB Circular A-128 have met the audit requirements of that Circular;

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b. Ensure that appropriate corrective action is taken within six months after receipt of the sub-recipient audit report in instances of noncompliance with Federal laws and regulations;

c. Consider whether sub-recipient audits necessitate adjustment of the recipient's own records; and

d. Require each sub-recipient to permit independent auditors to have access to the records and financial statements as necessary for the recipient to comply with this Circular.

6. Relation to Other Audit Requirements.

a. An audit made in accordance with this Circular shall be in lieu of any financial audit required under individual Federal awards. To the extent that an audit made in accordance with this Circular provides Federal agencies with the information and assurances they need to carry out their overall responsibilities, they shall rely upon and use such information. However, a Federal agency shall make any additional audits or reviews necessary to carry out responsibilities under Federal law and regulation. Any additional Federal audits or reviews shall be planned and carried out in such a way as to build upon work performed by the independent auditor.

b. Audit planning by Federal audit agencies should consider the extent to which reliance can be placed upon work performed by other auditors. Such auditors include State, local, Federal, and other independent auditors, and a recipient's internal auditors. Reliance placed upon the work of other auditors should be documented and in accordance with Government Auditing Standards.

c. The provisions of this Circular do not limit the authority of Federal agencies to make or contract for audits and evaluations of Federal awards, nor do they limit the authority of any Federal agency Inspector General or other Federal official.

d. The provisions of this Circular do not authorize any institution or sub-recipient thereof to constrain Federal agencies, in any manner, from carrying out additional audits, evaluations or reviews.

e. A Federal agency that makes or contracts for audits, in addition to the audits made by recipients pursuant to this Circular, shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits or reviews include financial, performance audits and program evaluations.

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7. Frequency of Audit. Audits shall usually be performed annually but not less frequently than every two years.

8. Sanctions. No audit costs may be charged to Federal awards when audits required by this Circular have not been made or have been made but not in accordance with this Circular. In cases of continued inability or unwillingness to have a proper audit in accordance with the Circular, Federal agencies must consider appropriate sanctions including:

- withholding a percentage of awards until the audit is completed satisfactorily;
- withholding or disallowing overhead costs; or
- suspending Federal awards until the audit is made.

9. Audit Costs. The cost of audits made in accordance with the provisions of this Circular are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provisions of Circular A-21, "Cost Principles for Universities" or Circular A-122, "Cost Principles for Nonprofit Organizations," FAR Subpart 31, or other applicable cost principles or regulations.

10. Auditor Selection. In arranging for audit services institutions shall follow the procurement standards prescribed by Circular A-110, "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations."

11. Small and Minority Audit Firms.

a. Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in contracts awarded to fulfill the requirements of this Circular.

b. Recipients of Federal awards shall take the following steps to further this goal:

(1) Ensure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable;

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(2) Make information on forthcoming opportunities available and arrange time frames for the audit to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals;

(3) Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals;

(4) Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited government programs, and in cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities;

(5) Encourage contracting with consortiums of small audit firms as described in section (1), above, when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals; and

(6) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

12. Scope of Audit and Audit Objectives.

a. The audit shall be made by an independent auditor in accordance with Government Auditing Standards developed by the Comptroller General of the United States covering financial audits. An audit under this Circular should be an organization-wide audit of the institution. However, there may be instances where Federal auditors are performing audits or are planning to perform audits at nonprofit institutions. In these cases, to minimize duplication of audit work, a coordinated audit approach may be agreed upon between the independent auditor, the recipient and the cognizant agency or the overnight agency. Those auditors who assume responsibility for any or all of the reports called for by paragraph 15 should follow guidance set forth in Government Auditing Standards in using work performed by others.

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b. The auditor shall determine whether:

(1) The financial statements of the institution present fairly its financial position and the results of its operations in accordance with generally accepted accounting principles;

(2) The institution has an internal control structure to provide reasonable assurance that the institution is managing Federal awards in compliance with applicable laws and regulations, and controls that ensure compliance with the laws and regulations that could have a material impact on the financial statements; and

(3) The institution has complied with laws and regulations that may have a direct and material effect on its financial statement amounts and on each major Federal program.

13. Internal Controls Over Federal Awards Compliance Reviews.

a. General. The independent auditor shall determine and report on whether the recipient has an internal control structure to provide reasonable assurance that it is managing Federal awards in compliance with applicable laws, regulations, and contract terms, and that it safeguards Federal funds. In performing these reviews, independent auditors should rely upon work performed by a recipient's internal auditors to the maximum extent possible. The extent of such reliance should be based upon the Government Auditing Standards.

b. Internal Control Review.

(1) In order to provide this assurance on internal controls, the auditor must obtain an understanding of the internal control structure and assess levels of internal control risk. After obtaining an understanding of the controls, the assessment must be made whether or not the auditor intends to place reliance on the internal control structure.

(2) As part of this review, the auditor shall:

(a) Perform tests of controls to evaluate the effectiveness of the design and operation of the policies and procedures in preventing or detecting material noncompliance. Tests of controls will not be required for those areas where the internal control structure policies and procedures are likely to be ineffective in preventing or detecting noncompliance, in which case a reportable condition or a material weakness should be reported in accordance with paragraph 15 c(2) of this Circular.

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(b) Review the recipients system for monitoring sub-recipients and obtaining and acting on sub-recipient audit reports.

(c) Determine whether controls are in effect to ensure direct and indirect costs were computed and billed in accordance with the guidance provided in the general requirements section of the compliance supplement to this Circular.

c. Compliance Review.

(1) The auditor shall determine whether the recipient has complied with laws and regulations that may have a direct and material effect on any of its major Federal programs. In addition, transactions selected for non-major programs shall be tested for compliance with Federal laws and regulations that apply to such transactions.

(2) In order to determine which major programs are to be tested for compliance, recipients shall identify, in their accounts, all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies, through other State and local governments or other recipients. To assist recipients in identifying Federal awards, Federal agencies and primary recipients shall provide the Catalog of Federal Domestic Assistance (CFDA) numbers to the recipients when making the awards.

(3) The review must include the selection of an adequate number of transactions from each major Federal financial assistance program so that the auditor obtains sufficient evidence to support the opinion on compliance required by paragraph 15c(3) of this Attachment. The selection and testing of transactions shall be based on the auditors' professional judgment considering such factors as the amount of expenditures for the program; the newness of the program or changes in its conditions; prior experience with the program particularly as revealed in audits and other evaluations (e.g., inspections, program reviews, or system reviews required by Federal Acquisition Regulations); the extent to which the program is carried out through sub-recipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

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(4) In making the test of transactions, the auditor shall determine whether:

-- the amounts reported as expenditures were for allowable services, and

-- the records show that those who received services or benefits were eligible to receive them.

(5) In addition to transaction testing, the auditor shall determine whether:

-- matching requirements, levels of effort and earmarking limitations were met,

-- Federal financial reports and claims for advances and reimbursement contain information that is supported by books and records from which the basic financial statements have been prepared, and

-- amounts claimed or used for matching were determined in accordance with (1) OMB Circular A-21, "Cost Principles for Educational Institutions"; (2) matching or cost sharing requirements in Circular A-110, "Uniform Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations"; (3) Circular A-122, "Cost Principles for Nonprofit Organizations"; (4) FAR subpart 31 cost principles; and (5) other applicable cost principles or regulations.

(6) The principal compliance requirements of the largest Federal programs may be ascertained by referring to the "Compliance Supplement for Single Audits of Educational Institutions and Other Nonprofit Organizations," and the "Compliance Supplement for Single Audits of State and Local Governments," issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplements, the auditor should ascertain compliance requirements by reviewing the statutes, regulations, and agreements governing individual programs.

(7) Transactions related to other awards that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

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14. Illegal Acts. If, during or in connection with the audit of a nonprofit institution, the auditor becomes aware of illegal acts, such acts shall be reported in accordance with the provisions of the Government Auditing Standards.

15. Audit Reports.

a. Audit reports must be prepared at the completion of the audit.

b. The audit report shall state that the audit was made in accordance with the provisions of this Circular.

c. The report shall be made up of at least the following three parts:

(1) The financial statements and a schedule of Federal awards and the auditor's report on the statements and the schedule. The schedule of Federal awards should identify major programs and show the total expenditures for each program. Individual major programs other than Research and Development and Student Aid should be listed by catalog number as identified in the Catalog of Federal Domestic Assistance. Expenditures for Federal programs other than major programs shall be shown under the caption "other Federal assistance." Also, the value of non-cash assistance such as loan guarantees, food commodities or donated surplus properties or the outstanding balance of loans should be disclosed in the schedule.

(2) A written report of the independent auditor's understanding of the internal control structure and the assessment of control risk. The auditor's report should include as a minimum: (1) the scope of the work in obtaining understanding of the internal control structure and in assessing the control risk, (2) the nonprofit institution's significant internal controls or control structure including the controls established to ensure compliance with laws and regulations that have a material impact on the financial statements and those that provide reasonable assurance that Federal awards are being managed in compliance with applicable laws and regulations, and (3) the reportable conditions, including the identification of material weaknesses, identified as a result of the auditor's work in understanding and assessing the control risk. If the auditor limits his/her the internal control structure for any reason, the circumstances should be disclosed in the report.

(3) The auditor's report on compliance containing:

-- An opinion as to whether each major Federal program was being administered in compliance with laws and regulations applicable to the matters

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described in paragraph 13(c) (3) of this Attachment, including compliance with laws and regulations pertaining to financial reports and claims for advances and reimbursements;

-- A statement of positive assurance on those items that were tested for compliance and negative assurance on those items not tested;

-- Material findings of noncompliance presented in their proper perspective:

- The size of the universe in number of items and dollars,
- The number and dollar amount of transactions tested by the auditors,
- The number and corresponding dollar amount of instances of noncompliance;

-- Where findings are specific to a particular Federal award, an identification of total amounts questioned, if any, for each Federal award, as a result of noncompliance and the auditor's recommendations for necessary corrective action.

c. The three parts of the audit report may be bound into a single document, or presented at the same time as separate documents.

d. Nonmaterial findings need not be disclosed with the compliance report but should be reported in writing to the recipient in a separate communication. The recipient, in turn, should forward the findings to the Federal grantor agencies or subgrantor sources.

e. All fraud or illegal acts or indications of such acts, including all questioned costs found as the result of these acts that auditors become aware of, may be covered in a separate written report submitted in accordance with the Government Auditing Standards.

f. The auditor's report should disclose the status of known but uncorrected significant material findings and recommendations from prior audits that affect the current audit objective as specified in the Government Auditing Standards.

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g. In addition to the audit report, the recipient shall provide a report of its comments on the findings and recommendations in the report, including a plan for corrective action taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

h. Copies of the audit report shall be submitted in accordance with the reporting standards for financial audits contained in the Auditing Standards. Sub-recipient auditors shall submit copies to recipients that provided Federal awards. The report shall be due within 30 days after the completion of the audit, but the audit should be completed and the report submitted not later than 13 months after the end of the recipient's fiscal year unless a longer period is agreed to with the cognizant or oversight agency.

i. Recipients of more than \$100,000 in Federal awards shall submit one copy of the audit report within 30 days after issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will keep completed audit reports on file.

j. Recipients shall keep audit reports, including sub-recipient reports, on file for three years from their issuance.

16. Audit Resolution.

a. As provided in paragraph 3, the cognizant agency shall be responsible for ensuring the resolution of audit findings that affect the programs of more than one Federal agency. Resolution of findings that relate to the programs of a single Federal agency will be the responsibility of the recipient and the agency. Alternate arrangements may be made on case-by-case basis by agreement among the agencies concerned.

b. A management decision shall be made within six months after receipt of the report by the Federal agencies responsible for audit resolution. Corrective action should proceed as rapidly as possible.

17. Audit Workpapers and Reports. Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the auditor is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant agency or its designee or the General Accounting Office at the completion of the audit.

Circular No. A-133 - Revised June 24, 1997
Audits of States, Local Governments, and Non-Profit Organizations

(Accompanying Federal Register Materials -- Audits of States, Local Governments, and Non-Profit Organizations June 30, 1997)

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Audits of States, Local Governments, and Non-Profit Organizations

- 1. Purpose.** This Circular is issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156. It sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards.
- 2. Authority.** Circular A-133 is issued under the authority of sections 503, 1111, and 7501 et seq. of title 31, United States Code, and Executive Orders 8248 and 11541.
- 3. Rescission and Supersession.** This Circular rescinds Circular A-128, "Audits of State and Local Governments," issued April 12, 1985, and supersedes the prior Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions," issued April 22, 1996. For effective dates, see paragraph 10.
- 4. Policy.** Except as provided herein, the standards set forth in this Circular shall be applied by all Federal agencies. If any statute specifically prescribes policies or specific requirements that differ from the standards provided herein, the provisions of the subsequent statute shall govern.

Federal agencies shall apply the provisions of the sections of this Circular to non-Federal entities, whether they are recipients expending Federal awards received directly from Federal awarding agencies, or are subrecipients expending Federal awards received from a pass-through entity (a recipient or another subrecipient).

This Circular does not apply to non-U.S. based entities expending Federal awards received either directly as a recipient or indirectly as a subrecipient.

- 5. Definitions.** The definitions of key terms used in this Circular are contained in § __.105 in the Attachment to this Circular.

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6. Required Action. The specific requirements and responsibilities of Federal agencies and non-Federal entities are set forth in the Attachment to this Circular. Federal agencies making awards to non-Federal entities, either directly or indirectly, shall adopt the language in the Circular in codified regulations as provided in Section 10 (below), unless different provisions are required by Federal statute or are approved by the Office of Management and Budget (OMB).

7. OMB Responsibilities. OMB will review Federal agency regulations and implementation of this Circular, and will provide interpretations of policy requirements and assistance to ensure uniform, effective and efficient implementation.

8. Information Contact. Further information concerning Circular A-133 may be obtained by contacting the Financial Standards and Reporting Branch, Office of Federal Financial Management, Office of Management and Budget, Washington, DC 20503, telephone (202) 395-3993.

9. Review Date. This Circular will have a policy review three years from the date of issuance.

10. Effective Dates. The standards set forth in § ____.400 of the Attachment to this Circular, which apply directly to Federal agencies, shall be effective July 1, 1996, and shall apply to audits of fiscal years beginning after June 30, 1996, except as otherwise specified in § ____.400(a).

The standards set forth in this Circular that Federal agencies shall apply to non-Federal entities shall be adopted by Federal agencies in codified regulations not later than 60 days after publication of this final revision in the Federal Register, so that they will apply to audits of fiscal years beginning after June 30, 1996, with the exception that § ____.305(b) of the Attachment applies to audits of fiscal years beginning after June 30, 1998. The requirements of Circular A-128, although the Circular is rescinded, and the 1990 version of Circular A-133 remain in effect for audits of fiscal years beginning on or before June 30, 1996.

Franklin D. Raines
Director

Attachment

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PART –AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS

Subpart A--General

Sec.

- __ .100 Purpose.
- __ .105 Definitions.

Subpart B--Audits

- __ .200 Audit requirements.
- __ .205 Basis for determining Federal awards expended.
- __ .210 Subrecipient and vendor determinations.
- __ .215 Relation to other audit requirements.
- __ .220 Frequency of audits.
- __ .225 Sanctions.
- __ .230 Audit costs.
- __ .235 Program-specific audits.

Subpart C--Auditees

- __ .300 Auditee responsibilities.
- __ .305 Auditor selection.
- __ .310 Financial statements.
- __ .315 Audit findings follow-up.
- __ .320 Report submission.

Subpart D--Federal Agencies and Pass-Through Entities

- __ .400 Responsibilities.
- __ .405 Management decision.

Subpart E--Auditors

- ___.500 Scope of audit.
- ___.505 Audit reporting.
- ___.510 Audit findings.
- ___.515 Audit working papers.
- ___.520 Major program determination.
- ___.525 Criteria for Federal program risk.
- ___.530 Criteria for a low-risk auditee.

Appendix A to Part __ - Data Collection Form (Form SF-SAC).

Appendix B to Part __ - Circular A-133 Compliance Supplement.

Subpart A—General

§ __.100 Purpose.

This part sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards.

§ __.105 Definitions.

Auditee means any non-Federal entity that expends Federal awards which must be audited under this part.

Auditor means an auditor, that is a public accountant or a Federal, State or local government audit organization, which meets the general standards specified in generally accepted government auditing standards (GAGAS). The term auditor does not include internal auditors of non-profit organizations.

Audit finding means deficiencies which the auditor is required by § __.510(a) to report in the schedule of findings and questioned costs.

CFDA number means the number assigned to a Federal program in the Catalog of Federal Domestic Assistance (CFDA).

Cluster of programs means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. "Other clusters" are as defined by the Office of Management and Budget (OMB) in the compliance supplement or as designated by a State for Federal awards the State provides to its

subrecipients that meet the definition of a cluster of programs. When designating an "other cluster," a State shall identify the Federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with § __.400(d)(1) and § __.400(d)(2), respectively. A cluster of programs shall be considered as one program for determining major programs, as described in § __.520, and, with the exception of R&D as described in § __.200(c), whether a program-specific audit may be elected.

Cognizant agency for audit means the Federal agency designated to carry out the responsibilities described in § __.400(a).

Compliance supplement refers to the Circular A-133 Compliance Supplement, included as Appendix B to Circular A-133, or such documents as OMB or its designee may issue to replace it. This document is available from the Government Printing Office, Superintendent of Documents, Washington, DC 20402-9325.

Corrective action means action taken by the auditee that:

- (1) Corrects identified deficiencies;
- (2) Produces recommended improvements; or
- (3) Demonstrates that audit findings are either invalid or do not warrant auditee action.

Federal agency has the same meaning as the term agency in Section 551(1) of title 5, United States Code.

Federal award means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. It does not include procurement contracts, under grants or contracts, used to buy goods or services from vendors. Any audits of such vendors shall be covered by the terms and conditions of the contract. Contracts to operate Federal Government owned, contractor operated facilities (GOCOs) are excluded from the requirements of this part.

Federal awarding agency means the Federal agency that provides an award directly to the recipient.

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Federal financial assistance means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance, but does not include amounts received as reimbursement for services rendered to individuals as described in § __.205(h) and § __.205(i).

Federal program means:

- (1) All Federal awards to a non-Federal entity assigned a single number in the CFDA.
- (2) When no CFDA number is assigned, all Federal awards from the same agency made for the same purpose should be combined and considered one program.
- (3) Notwithstanding paragraphs (1) and (2) of this definition, a cluster of programs. The types of clusters of programs are:
 - (i) Research and development (R&D);
 - (ii) Student financial aid (SFA); and
 - (iii) "Other clusters," as described in the definition of cluster of programs in this section.

GAGAS means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

Generally accepted accounting principles has the meaning specified in generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA).

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Internal control means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (1) Effectiveness and efficiency of operations;
- (2) Reliability of financial reporting; and
- (3) Compliance with applicable laws and regulations.

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Internal control pertaining to the compliance requirements for Federal programs (Internal control over Federal programs) means a process--effected by an entity's management and other personnel--designed to provide reasonable assurance regarding the achievement of the following objectives for Federal programs:

- (1) Transactions are properly recorded and accounted for to:
 - (i) Permit the preparation of reliable financial statements and Federal reports;
 - (ii) Maintain accountability over assets; and
 - (iii) Demonstrate compliance with laws, regulations, and other compliance requirements;
- (2) Transactions are executed in compliance with:
 - (i) Laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on a Federal program; and
 - (ii) Any other laws and regulations that are identified in the compliance supplement; and
- (3) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

Loan means a Federal loan or loan guarantee received or administered by a non-Federal entity.

Local government means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

Major program means a Federal program determined by the auditor to be a major program in accordance with § __.520 or a program identified as a major program by a Federal agency or pass-through entity in accordance with § __.215(c).

Management decision means the evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision as to what corrective action is necessary.

Non-Federal entity means a State, local government, or non-profit organization.

Non-profit organization means:

- (1) any corporation, trust, association, cooperative, or other organization that:
 - (i) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - (ii) Is not organized primarily for profit; and

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(iii) Uses its net proceeds to maintain, improve, or expand its operations;
and

(2) The term non-profit organization includes non-profit institutions of higher education and hospitals.

OMB means the Executive Office of the President, Office of Management and Budget.

Oversight agency for audit means the Federal awarding agency that provides the predominant amount of direct funding to a recipient not assigned a cognizant agency for audit. When there is no direct funding, the Federal agency with the predominant indirect funding shall assume the oversight responsibilities. The duties of the oversight agency for audit are described in § __.400(b).

Pass-through entity means a non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program.

Program-specific audit means an audit of one Federal program as provided for in § __.200(c) and § __.235.

Questioned cost means a cost that is questioned by the auditor because of an audit finding:

(1) Which resulted from a violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds;

(2) Where the costs, at the time of the audit, are not supported by adequate documentation; or

(3) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

Recipient means a non-Federal entity that expends Federal awards received directly from a Federal awarding agency to carry out a Federal program.

Research and development (R&D) means all research activities, both basic and applied, and all development activities that are performed by a non-Federal entity. Research is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function. Development is the systematic use of knowledge and understanding gained from research directed toward the production of

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useful materials, devices, systems, or methods, including design and development of prototypes and processes.

Single audit means an audit which includes both the entity's financial statements and the Federal awards as described in § __.500.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe as defined in this section.

Student Financial Aid (SFA) includes those programs of general student assistance, such as those authorized by Title IV of the Higher Education Act of 1965, as amended, (20 U.S.C. 1070 *et seq.*) which is administered by the U.S. Department of Education, and similar programs provided by other Federal agencies. It does not include programs which provide fellowships or similar Federal awards to students on a competitive basis, or for specified studies or research.

Subrecipient means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Guidance on distinguishing between a subrecipient and a vendor is provided in § __.210.

Types of compliance requirements refers to the types of compliance requirements listed in the compliance supplement. Examples include: activities allowed or unallowed; allowable costs/cost principles; cash management; eligibility; matching, level of effort, earmarking; and, reporting.

Vendor means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program. Additional guidance on distinguishing between a subrecipient and a vendor is provided in § __.210.

Subpart B—Audits

§ __.200 Audit requirements.

(a) **Audit required.** Non-Federal entities that expend \$300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. Guidance on determining Federal awards expended is provided in § __.205.

(b) **Single audit.** Non-Federal entities that expend \$300,000 or more in a year in Federal awards shall have a single audit conducted in accordance with § __.500 except when they elect to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) **Program-specific audit election.** When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's laws, regulations, or grant agreements do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with § __.235. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

(d) **Exemption when Federal awards expended are less than \$300,000.** Non-Federal entities that expend less than \$300,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in § __.215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

(e) **Federally Funded Research and Development Centers (FFRDC).** Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.

§ __.205 Basis for determining Federal awards expended.

(a) **Determining Federal awards expended.** The determination of when an award is expended should be based on when the activity related to the award occurs. Generally, the activity pertains to events that require the non-Federal entity to comply with laws, regulations, and the provisions of contracts or grant agreements, such as: expenditure/expense transactions associated with grants, cost-reimbursement contracts, cooperative agreements, and direct appropriations; the disbursement of funds passed

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through to subrecipients; the use of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income; the distribution or consumption of food commodities; the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and, the period when insurance is in force.

(b) Loan and loan guarantees (loans). Since the Federal Government is at risk for loans until the debt is repaid, the following guidelines shall be used to calculate the value of Federal awards expended under loan programs, except as noted in paragraphs (c) and (d) of this section:

- (1) Value of new loans made or received during the fiscal year; plus
- (2) Balance of loans from previous years for which the Federal Government imposes continuing compliance requirements; plus
- (3) Any interest subsidy, cash, or administrative cost allowance received.

(c) Loan and loan guarantees (loans) at institutions of higher education. When loans are made to students of an institution of higher education but the institution does not make the loans, then only the value of loans made during the year shall be considered Federal awards expended in that year. The balance of loans for previous years is not included as Federal awards expended because the lender accounts for the prior balances.

(d) Prior loan and loan guarantees (loans). Loans, the proceeds of which were received and expended in prior-years, are not considered Federal awards expended under this part when the laws, regulations, and the provisions of contracts or grant agreements pertaining to such loans impose no continuing compliance requirements other than to repay the loans.

(e) Endowment funds. The cumulative balance of Federal awards for endowment funds which are federally restricted are considered awards expended in each year in which the funds are still restricted.

(f) Free rent. Free rent received by itself is not considered a Federal award expended under this part. However, free rent received as part of an award to carry out a Federal program shall be included in determining Federal awards expended and subject to audit under this part.

(g) Valuing non-cash assistance. Federal non-cash assistance, such as free rent, food stamps, food commodities, donated property, or donated surplus property, shall be valued at fair market value at the time of receipt or the assessed value provided by the Federal agency.

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(h) **Medicare.** Medicare payments to a non-Federal entity for providing patient care services to Medicare eligible individuals are not considered Federal awards expended under this part.

(i) **Medicaid.** Medicaid payments to a subrecipient for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended under this part unless a State requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis.

(j) **Certain loans provided by the National Credit Union Administration.** For purposes of this part, loans made from the National Credit Union Share Insurance Fund and the Central Liquidity Facility that are funded by contributions from insured institutions are not considered Federal awards expended.

§ __.210 Subrecipient and vendor determinations.

(a) **General.** An auditee may be a recipient, a subrecipient, and a vendor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a vendor would not be considered Federal awards. The guidance in paragraphs (b) and (c) of this section should be considered in determining whether payments constitute a Federal award or a payment for goods and services.

(b) **Federal award.** Characteristics indicative of a Federal award received by a subrecipient are when the organization:

- (1) Determines who is eligible to receive what Federal financial assistance;
- (2) Has its performance measured against whether the objectives of the Federal program are met;
- (3) Has responsibility for programmatic decision making;
- (4) Has responsibility for adherence to applicable Federal program compliance requirements; and
- (5) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

(c) **Payment for goods and services.** Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and

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(5) Is not subject to compliance requirements of the Federal program.

(d) Use of judgment in making determination. There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

(e) For-profit subrecipient. Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility.

Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract, and post-award audits.

(f) Compliance responsibility for vendors. In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of contracts or grant agreements.

§ __.215 Relation to other audit requirements.

(a) Audit under this part in lieu of other audits. An audit made in accordance with this part shall be in lieu of any financial audit required under individual Federal awards. To the extent this audit meets a Federal agency's needs, it shall rely upon and use such audits. The provisions of this part neither limit the authority of Federal agencies, including their Inspectors General, or GAO to conduct or arrange for additional audits (e.g., financial audits, performance audits, evaluations, inspections, or reviews) nor authorize any auditee to constrain Federal agencies from carrying out additional audits. Any additional audits shall be planned and performed in such a way as to build upon work performed by other auditors.

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(b) **Federal agency to pay for additional audits.** A Federal agency that conducts or contracts for additional audits shall, consistent with other applicable laws and regulations, arrange for funding the full cost of such additional audits.

(c) **Request for a program to be audited as a major program.** A Federal agency may request an auditee to have a particular Federal program audited as a major program in lieu of the Federal agency conducting or arranging for the additional audits. To allow for planning, such requests should be made at least 180 days prior to the end of the fiscal year to be audited. The auditee, after consultation with its auditor, should promptly respond to such request by informing the Federal agency whether the program would otherwise be audited as a major program using the risk-based audit approach described in § __.520 and, if not, the estimated incremental cost. The Federal agency shall then promptly confirm to the auditee whether it wants the program audited as a major program. If the program is to be audited as a major program based upon this Federal agency request, and the Federal agency agrees to pay the full incremental costs, then the auditee shall have the program audited as a major program. A pass-through entity may use the provisions of this paragraph for a subrecipient.

§ __.220 Frequency of audits.

Except for the provisions for biennial audits provided in paragraphs (a) and (b) of this section, audits required by this part shall be performed annually. Any biennial audit shall cover both years within the biennial period.

(a) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this part biennially. This requirement must still be in effect for the biennial period under audit.

(b) Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this part biennially.

§ __.225 Sanctions.

No audit costs may be charged to Federal awards when audits required by this part have not been made or have been made but not in accordance with this part. In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, Federal agencies and pass-through entities shall take appropriate action using sanctions such as:

- (a) Withholding a percentage of Federal awards until the audit is completed satisfactorily;
- (b) Withholding or disallowing overhead costs;

- (c) Suspending Federal awards until the audit is conducted; or
- (d) Terminating the Federal award.

§ __.230 Audit costs.

(a) **Allowable costs.** Unless prohibited by law, the cost of audits made in accordance with the provisions of this part are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars, the Federal Acquisition Regulation (FAR) (48 CFR parts 30 and 31), or other applicable cost principles or regulations.

(b) **Unallowable costs.** A non-Federal entity shall not charge the following to a Federal award:

(1) The cost of any audit under the Single Audit Act Amendments of 1996 (31 U.S.C. 7501 et seq.) not conducted in accordance with this part.

(2) The cost of auditing a non-Federal entity which has Federal awards expended of less than \$300,000 per year and is thereby exempted under § __.200(d) from having an audit conducted under this part. However, this does not prohibit a pass-through entity from charging Federal awards for the cost of limited scope audits to monitor its subrecipients in accordance with § __.400(d)(3), provided the subrecipient does not have a single audit. For purposes of this part, limited scope audits only include agreed-upon procedures engagements conducted in accordance with either the AICPA's generally accepted auditing standards or attestation standards, that are paid for and arranged by a pass-through entity and address only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching, level of effort, earmarking; and, reporting.

§ __.235 Program-specific audits.

(a) **Program-specific audit guide available.** In many cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal control, compliance requirements, suggested audit procedures, and audit reporting requirements. The auditor should contact the Office of Inspector General of the Federal agency to determine whether such a guide is available. When a current program-specific audit guide is available, the auditor shall follow GAGAS and the guide when performing a program-specific audit.

(b) Program-specific audit guide not available.

(1) When a program-specific audit guide is not available, the auditee and auditor shall have basically the same responsibilities for the Federal program as they would have for an audit of a major program in a single audit.

(2) The auditee shall prepare the financial statement(s) for the Federal program that includes, at a minimum, a schedule of expenditures of Federal awards for the program and notes that describe the significant accounting policies used in preparing the schedule, a summary schedule of prior audit findings consistent with the requirements of § __.315(b), and a corrective action plan consistent with the requirements of § __.315(c).

(3) The auditor shall:

(i) Perform an audit of the financial statement(s) for the Federal program in accordance with GAGAS;

(ii) Obtain an understanding of internal control and perform tests of internal control over the Federal program consistent with the requirements of § __.500(c) for a major program;

(iii) Perform procedures to determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on the Federal program consistent with the requirements of § __.500(d) for a major program; and

(iv) Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding in accordance with the requirements of § __.500(e).

(4) The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(i) An opinion (or disclaimer of opinion) as to whether the financial statement(s) of the Federal program is presented fairly in all material respects in conformity with the stated accounting policies;

(ii) A report on internal control related to the Federal program, which shall describe the scope of testing of internal control and the results of the tests;

(iii) A report on compliance which includes an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on the Federal program; and

(iv) A schedule of findings and questioned costs for the Federal program that includes a summary of the auditor's results relative to the Federal program in a

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format consistent with § __.505(d)(1) and findings and questioned costs consistent with the requirements of § __.505(d)(3).

(c) Report submission for program-specific audits.

(1) The audit shall be completed and the reporting required by paragraph (c)(2) or (c)(3) of this section submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the Federal agency that provided the funding or a different period is specified in a program-specific audit guide. (However, for fiscal years beginning on or before June 30, 1998, the audit shall be completed and the required reporting shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period, unless a different period is specified in a program-specific audit guide.) Unless restricted by law or regulation, the auditee shall make report copies available for public inspection.

(2) When a program-specific audit guide is available, the auditee shall submit to the Federal clearinghouse designated by OMB the data collection form prepared in accordance with § __.320(b), as applicable to a program-specific audit, and the reporting required by the program-specific audit guide to be retained as an archival copy. Also, the auditee shall submit to the Federal awarding agency or pass-through entity the reporting required by the program-specific audit guide.

(3) When a program-specific audit guide is not available, the reporting package for a program-specific audit shall consist of the financial statement(s) of the Federal program, a summary schedule of prior audit findings, and a corrective action plan as described in paragraph (b)(2) of this section, and the auditor's report(s) described in paragraph (b)(4) of this section. The data collection form prepared in accordance with § __.320(b), as applicable to a program-specific audit, and one copy of this reporting package shall be submitted to the Federal clearinghouse designated by OMB to be retained as an archival copy. Also, when the schedule of findings and questioned costs disclosed audit findings or the summary schedule of prior audit findings reported the status of any audit findings, the auditee shall submit one copy of the reporting package to the Federal clearinghouse on behalf of the Federal awarding agency, or directly to the pass-through entity in the case of a subrecipient. Instead of submitting the reporting package to the pass-through entity, when a subrecipient is not required to submit a reporting package to the pass-through entity, the subrecipient shall provide written notification to the pass-through entity, consistent with the requirements of § __.320(e)(2). A subrecipient may submit a copy of the reporting package to the pass-through entity to comply with this notification requirement.

(d) Other sections of this part may apply. Program-specific audits are subject to § __.100 through § __.215(b), § __.220 through § __.230, § __.300 through § __.305, § __.315, § __.320(f) through § __.320(j), § __.400 through § __.405, § __.510 through § __.515, and other referenced provisions of this part unless contrary to the provisions of this section, a program-specific audit guide, or program laws and regulations.

Subpart C--Auditees

§ __.300 Auditee responsibilities.

The auditee shall:

- (a) Identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.
- (b) Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.
- (c) Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs.
- (d) Prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with § __.310.
- (e) Ensure that the audits required by this part are properly performed and submitted when due. When extensions to the report submission due date required by § __.320(a) are granted by the cognizant or oversight agency for audit, promptly notify the Federal clearinghouse designated by OMB and each pass-through entity providing Federal awards of the extension.
- (f) Follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with § __.315(b) and § __.315(c), respectively.

§ __.305 Auditor selection.

(a) **Auditor procurement.** In procuring audit services, auditees shall follow the procurement standards prescribed by the Grants Management Common Rule (hereinafter referred to as the "A-102 Common Rule") published March 11, 1988 and amended April 19, 1995 [insert appropriate CFR citation], Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," or the FAR (48 CFR part 42), as applicable (OMB Circulars are available from the Office of Administration, Publications Office, room 2200, New Executive Office Building, Washington, DC 20503). Whenever possible, auditees shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in the A-102 Common Rule, OMB Circular A-110, or the FAR (48 CFR part 42), as applicable. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price.

(b) **Restriction on auditor preparing indirect cost proposals.** An auditor who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by this part when the indirect costs recovered by the auditee during the prior year exceeded \$1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs. To minimize any disruption in existing contracts for audit services, this paragraph applies to audits of fiscal years beginning after June 30, 1998.

(c) **Use of Federal auditors.** Federal auditors may perform all or part of the work required under this part if they comply fully with the requirements of this part.

§ __.310 Financial statements.

(a) **Financial statements.** The auditee shall prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited. The financial statements shall be for the same organizational unit and fiscal year that is chosen to meet the requirements of this part. However, organization-wide financial statements may also include departments, agencies, and other organizational units that have separate audits in accordance with § __.500(a) and prepare separate financial statements.

(b) Schedule of expenditures of Federal awards. The auditee shall also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements. While not required, the auditee may choose to provide information requested by Federal awarding agencies and pass-through entities to make the schedule easier to use. For example, when a Federal program has multiple award years, the auditee may list the amount of Federal awards expended for each award year separately. At a minimum, the schedule shall:

(1) List individual Federal programs by Federal agency. For Federal programs included in a cluster of programs, list individual Federal programs within a cluster of programs. For R&D, total Federal awards expended shall be shown either by individual award or by Federal agency and major subdivision within the Federal agency. For example, the National Institutes of Health is a major subdivision in the Department of Health and Human Services.

(2) For Federal awards received as a subrecipient, the name of the pass-through entity and identifying number assigned by the pass-through entity shall be included.

(3) Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number when the CFDA information is not available.

(4) Include notes that describe the significant accounting policies used in preparing the schedule.

(5) To the extent practical, pass-through entities should identify in the schedule the total amount provided to subrecipients from each Federal program.

(6) Include, in either the schedule or a note to the schedule, the value of the Federal awards expended in the form of non-cash assistance, the amount of insurance in effect during the year, and loans or loan guarantees outstanding at year end. While not required, it is preferable to present this information in the schedule.

§ __.315 Audit findings follow-up.

(a) General. The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee shall prepare a summary schedule of prior audit findings. The auditee shall also prepare a corrective action plan for current year audit findings. The summary schedule of prior audit findings and the corrective action plan shall include the reference numbers the auditor assigns to audit findings under § __.510(c). Since the summary schedule may include audit findings from multiple years, it shall include the fiscal year in which the finding initially occurred.

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(b) Summary schedule of prior audit findings. The summary schedule of prior audit findings shall report the status of all audit findings included in the prior audit's schedule of findings and questioned costs relative to Federal awards. The summary schedule shall also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected in accordance with paragraph (b)(1) of this section, or no longer valid or not warranting further action in accordance with paragraph (b)(4) of this section.

(1) When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

(2) When audit findings were not corrected or were only partially corrected, the summary schedule shall describe the planned corrective action as well as any partial corrective action taken.

(3) When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule shall provide an explanation.

(4) When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position shall be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:

- (i) Two years have passed since the audit report in which the finding occurred was submitted to the Federal clearinghouse;
- (ii) The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and
- (iii) A management decision was not issued.

(c) Corrective action plan. At the completion of the audit, the auditee shall prepare a corrective action plan to address each audit finding included in the current year auditor's reports. The corrective action plan shall provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan shall include an explanation and specific reasons.

§ __.320 Report submission.

(a) General. The audit shall be completed and the data collection form described in paragraph (b) of this section and reporting package described in paragraph (c) of this section shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit. (However, for fiscal

years beginning on or before June 30, 1998, the audit shall be completed and the data collection form and reporting package shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period.) Unless restricted by law or regulation, the auditee shall make copies available for public inspection.

(b) Data Collection.

(1) The auditee shall submit a data collection form which states whether the audit was completed in accordance with this part and provides information about the auditee, its Federal programs, and the results of the audit. The form shall be approved by OMB, available from the Federal clearinghouse designated by OMB, and include data elements similar to those presented in this paragraph. A senior level representative of the auditee (e.g., State controller, director of finance, chief executive officer, or chief financial officer) shall sign a statement to be included as part of the form certifying that: the auditee complied with the requirements of this part, the form was prepared in accordance with this part (and the instructions accompanying the form), and the information included in the form, in its entirety, are accurate and complete.

(2) The data collection form shall include the following data elements:

(i) The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

(ii) Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses.

(iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee.

(iv) Where applicable, a statement that reportable conditions in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses.

(v) The type of report the auditor issued on compliance for major programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

(vi) A list of the Federal awarding agencies which will receive a copy of the reporting package pursuant to § __.320(d)(2) of OMB Circular A-133.

(vii) A yes or no statement as to whether the auditee qualified as a low-risk auditee under § __.530 of OMB Circular A-133.

(viii) The dollar threshold used to distinguish between Type A and Type B programs as defined in § __.520(b) of OMB Circular A-133.

(ix) The Catalog of Federal Domestic Assistance (CFDA) number for each Federal program, as applicable.

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(x) The name of each Federal program and identification of each major program. Individual programs within a cluster of programs should be listed in the same level of detail as they are listed in the schedule of expenditures of Federal awards.

(xi) The amount of expenditures in the schedule of expenditures of Federal awards associated with each Federal program.

(xii) For each Federal program, a yes or no statement as to whether there are audit findings in each of the following types of compliance requirements and the total amount of any questioned costs:

- (A) Activities allowed or unallowed.
- (B) Allowable costs/cost principles.
- (C) Cash management.
- (D) Davis-Bacon Act.
- (E) Eligibility.
- (F) Equipment and real property management.
- (G) Matching, level of effort, earmarking.
- (H) Period of availability of Federal funds.
- (I) Procurement and suspension and debarment.
- (J) Program income.
- (K) Real property acquisition and relocation assistance.
- (L) Reporting.
- (M) Subrecipient monitoring.
- (N) Special tests and provisions.

(xiii) Auditee Name, Employer Identification Number(s), Name and Title of Certifying Official, Telephone Number, Signature, and Date.

(xiv) Auditor Name, Name and Title of Contact Person, Auditor Address, Auditor Telephone Number, Signature, and Date.

(xv) Whether the auditee has either a cognizant or oversight agency for audit.

(xvi) The name of the cognizant or oversight agency for audit determined in accordance with § __.400(a) and § __.400(b), respectively.

(3) Using the information included in the reporting package described in paragraph (c) of this section, the auditor shall complete the applicable sections of the form. The auditor shall sign a statement to be included as part of the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, that the form is not a substitute for the reporting package described in paragraph (c) of this section, and that the content of the form is limited to the data elements prescribed by OMB.

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(c) Reporting package. The reporting package shall include the:

- (1) Financial statements and schedule of expenditures of Federal awards discussed in § __.310(a) and § __.310(b), respectively;**
- (2) Summary schedule of prior audit findings discussed in § __.315(b);**
- (3) Auditor's report(s) discussed in § __.505; and**
- (4) Corrective action plan discussed in § __.315(c).**

(d) Submission to clearinghouse. All auditees shall submit to the Federal clearinghouse designated by OMB the data collection form described in paragraph (b) of this section and one copy of the reporting package described in paragraph (c) of this section for:

- (1) The Federal clearinghouse to retain as an archival copy; and**
- (2) Each Federal awarding agency when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the Federal awarding agency provided directly or the summary schedule of prior audit findings reported the status of any audit findings relating to Federal awards that the Federal awarding agency provided directly.**

(e) Additional submission by subrecipients.

(1) In addition to the requirements discussed in paragraph (d) of this section, auditees that are also subrecipients shall submit to each pass-through entity one copy of the reporting package described in paragraph (c) of this section for each pass-through entity when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the pass-through entity provided or the summary schedule of prior audit findings reported the status of any audit findings relating to Federal awards that the pass-through entity provided.

(2) Instead of submitting the reporting package to a pass-through entity, when a subrecipient is not required to submit a reporting package to a pass-through entity pursuant to paragraph (e)(1) of this section, the subrecipient shall provide written notification to the pass-through entity that: an audit of the subrecipient was conducted in accordance with this part (including the period covered by the audit and the name, amount, and CFDA number of the Federal award(s) provided by the pass-through entity); the schedule of findings and questioned costs disclosed no audit findings relating to the Federal award(s) that the pass-through entity provided; and, the summary schedule of prior audit findings did not report on the status of any audit findings relating to the Federal award(s) that the pass-through entity provided. A subrecipient may submit a copy of the reporting package described in paragraph (c) of this section to a pass-through entity to comply with this notification requirement.

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(f) **Requests for report copies.** In response to requests by a Federal agency or pass-through entity, auditees shall submit the appropriate copies of the reporting package described in paragraph (c) of this section and, if requested, a copy of any management letters issued by the auditor.

(g) **Report retention requirements.** Auditees shall keep one copy of the data collection form described in paragraph (b) of this section and one copy of the reporting package described in paragraph (c) of this section on file for three years from the date of submission to the Federal clearinghouse designated by OMB. Pass-through entities shall keep subrecipients' submissions on file for three years from date of receipt.

(h) **Clearinghouse responsibilities.** The Federal clearinghouse designated by OMB shall distribute the reporting packages received in accordance with paragraph (d)(2) of this section and § __.235(c)(3) to applicable Federal awarding agencies, maintain a data base of completed audits, provide appropriate information to Federal agencies, and follow up with known auditees which have not submitted the required data collection forms and reporting packages.

(i) **Clearinghouse address.** The address of the Federal clearinghouse currently designated by OMB is Federal Audit Clearinghouse, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, IN 47132.

(j) **Electronic filing.** Nothing in this part shall preclude electronic submissions to the Federal clearinghouse in such manner as may be approved by OMB. With OMB approval, the Federal clearinghouse may pilot test methods of electronic submissions.

Subpart D—Federal Agencies and Pass-Through Entities

§ __.400 Responsibilities.

(a) **Cognizant agency for audit responsibilities.** Recipients expending more than \$25 million a year in Federal awards shall have a cognizant agency for audit. The designated cognizant agency for audit shall be the Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB makes a specific cognizant agency for audit assignment. To provide for continuity of cognizance, the determination of the predominant amount of direct funding shall be based upon direct Federal awards expended in the recipient's fiscal years ending in 1995, 2000, 2005, and every fifth year thereafter. For example, audit cognizance for periods ending in 1997 through 2000 will be determined based on Federal awards expended in 1995. (However, for States and local governments that expend more than \$25 million a year in Federal awards and have previously assigned cognizant agencies for audit, the requirements of

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this paragraph are not effective until fiscal years beginning after June 30, 2000.) Notwithstanding the manner in which audit cognizance is determined, a Federal awarding agency with cognizance for an auditee may reassign cognizance to another Federal awarding agency which provides substantial direct funding and agrees to be the cognizant agency for audit. Within 30 days after any reassignment, both the old and the new cognizant agency for audit shall notify the auditee, and, if known, the auditor of the reassignment. The cognizant agency for audit shall:

- (1) Provide technical audit advice and liaison to auditees and auditors.
- (2) Consider auditee requests for extensions to the report submission due date required by § __.320(a). The cognizant agency for audit may grant extensions for good cause.
- (3) Obtain or conduct quality control reviews of selected audits made by non-Federal auditors, and provide the results, when appropriate, to other interested organizations.
- (4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any direct reporting by the auditee or its auditor of irregularities or illegal acts, as required by GAGAS or laws and regulations.
- (5) Advise the auditor and, where appropriate, the auditee of any deficiencies found in the audits when the deficiencies require corrective action by the auditor. When advised of deficiencies, the auditee shall work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency for audit shall notify the auditor, the auditee, and applicable Federal awarding agencies and pass-through entities of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance by auditors shall be referred to appropriate State licensing agencies and professional bodies for disciplinary action.
- (6) Coordinate, to the extent practical, audits or reviews made by or for Federal agencies that are in addition to the audits made pursuant to this part, so that the additional audits or reviews build upon audits performed in accordance with this part.
- (7) Coordinate a management decision for audit findings that affect the Federal programs of more than one agency.
- (8) Coordinate the audit work and reporting responsibilities among auditors to achieve the most cost-effective audit.
- (9) For biennial audits permitted under § __.220, consider auditee requests to qualify as a low-risk auditee under § __.530(a).

(b) **Oversight agency for audit responsibilities.** An auditee which does not have a designated cognizant agency for audit will be under the general oversight of the Federal agency determined in accordance with § __.105. The oversight agency for audit:

- (1) Shall provide technical advice to auditees and auditors as requested.
- (2) May assume all or some of the responsibilities normally performed by a cognizant agency for audit.

(c) **Federal awarding agency responsibilities.** The Federal awarding agency shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each recipient of the CFDA title and number, award name and number, award year, and if the award is for R&D. When some of this information is not available, the Federal agency shall provide information necessary to clearly describe the Federal award.

(2) Advise recipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements.

(3) Ensure that audits are completed and reports are received in a timely manner and in accordance with the requirements of this part.

(4) Provide technical advice and counsel to auditees and auditors as requested.

(5) Issue a management decision on audit findings within six months after receipt of the audit report and ensure that the recipient takes appropriate and timely corrective action.

(6) Assign a person responsible for providing annual updates of the compliance supplement to OMB.

(d) **Pass-through entity responsibilities.** A pass-through entity shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each subrecipient of CFDA title and number, award name and number, award year, if the award is R&D, and name of Federal agency. When some of this information is not available, the pass-through entity shall provide the best information available to describe the Federal award.

(2) Advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.

(3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

(4) Ensure that subrecipients expending \$300,000 or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of this part for that fiscal year.

(5) Issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.

(6) Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.

(7) Require each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with this part.

§ __.405 Management decision.

(a) **General.** The management decision shall clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee.

(b) **Federal agency.** As provided in § __.400(a)(7), the cognizant agency for audit shall be responsible for coordinating a management decision for audit findings that affect the programs of more than one Federal agency. As provided in § __.400(c)(5), a Federal awarding agency is responsible for issuing a management decision for findings that relate to Federal awards it makes to recipients. Alternate arrangements may be made on a case-by-case basis by agreement among the Federal agencies concerned.

(c) **Pass-through entity.** As provided in § __.400(d)(5), the pass-through entity shall be responsible for making the management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) **Time requirements.** The entity responsible for making the management decision shall do so within six months of receipt of the audit report. Corrective action should be initiated within six months after receipt of the audit report and proceed as rapidly as possible.

(e) **Reference numbers.** Management decisions shall include the reference numbers the auditor assigned to each audit finding in accordance with § __.510(c).

Subpart E—Auditors

§ __.500 Scope of audit.

(a) **General.** The audit shall be conducted in accordance with GAGAS. The audit shall cover the entire operations of the auditee; or, at the option of the auditee, such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year, provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and

other organizational unit, which shall be considered to be a non-Federal entity. The financial statements and schedule of expenditures of Federal awards shall be for the same fiscal year.

(b) **Financial statements.** The auditor shall determine whether the financial statements of the auditee are presented fairly in all material respects in conformity with generally accepted accounting principles. The auditor shall also determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the auditee's financial statements taken as a whole.

(c) **Internal control.**

(1) In addition to the requirements of GAGAS, the auditor shall perform procedures to obtain an understanding of internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs.

(2) Except as provided in paragraph (c)(3) of this section, the auditor shall:

(i) Plan the testing of internal control over major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program; and

(ii) Perform testing of internal control as planned in paragraph (c)(2)(i) of this section.

(3) When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in paragraph (c)(2) of this section are not required for those compliance requirements. However, the auditor shall report a reportable condition (including whether any such condition is a material weakness) in accordance with § __.510, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.

(d) **Compliance.**

(1) In addition to the requirements of GAGAS, the auditor shall determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs.

(2) The principal compliance requirements applicable to most Federal programs and the compliance requirements of the largest Federal programs are included in the compliance supplement.

(3) For the compliance requirements related to Federal programs contained in the compliance supplement, an audit of these compliance requirements will meet the requirements of this part. Where there have been changes to the compliance

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requirements and the changes are not reflected in the compliance supplement, the auditor shall determine the current compliance requirements and modify the audit procedures accordingly. For those Federal programs not covered in the compliance supplement, the auditor should use the types of compliance requirements contained in the compliance supplement as guidance for identifying the types of compliance requirements to test, and determine the requirements governing the Federal program by reviewing the provisions of contracts and grant agreements and the laws and regulations referred to in such contracts and grant agreements.

(4) The compliance testing shall include tests of transactions and such other auditing procedures necessary to provide the auditor sufficient evidence to support an opinion on compliance.

(e) **Audit follow-up.** The auditor shall follow-up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with § __.315(b), and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding. The auditor shall perform audit follow-up procedures regardless of whether a prior audit finding relates to a major program in the current year.

(f) **Data Collection Form.** As required in § __.320(b)(3), the auditor shall complete and sign specified sections of the data collection form.

§ __.505 Audit reporting.

The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(a) An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole.

(b) A report on internal control related to the financial statements and major programs. This report shall describe the scope of testing of internal control and the results of the tests, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

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(c) A report on compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements. This report shall also include an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on each major program, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

(d) A schedule of findings and questioned costs which shall include the following three components:

(1) A summary of the auditor's results which shall include:

(i) The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(ii) Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses;

(iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee;

(iv) Where applicable, a statement that reportable conditions in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses;

(v) The type of report the auditor issued on compliance for major programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(vi) A statement as to whether the audit disclosed any audit findings which the auditor is required to report under § __.510(a);

(vii) An identification of major programs;

(viii) The dollar threshold used to distinguish between Type A and Type B programs, as described in § __.520(b); and

(ix) A statement as to whether the auditee qualified as a low-risk auditee under § __.530.

(2) Findings relating to the financial statements which are required to be reported in accordance with GAGAS.

(3) Findings and questioned costs for Federal awards which shall include audit findings as defined in § __.510(a).

(i) Audit findings (e.g., internal control findings, compliance findings, questioned costs, or fraud) which relate to the same issue should be presented as a single audit finding. Where practical, audit findings should be organized by Federal agency or pass-through entity.

(ii) Audit findings which relate to both the financial statements and Federal awards, as reported under paragraphs (d)(2) and (d)(3) of this section, respectively, should be reported in both sections of the schedule. However, the reporting in one section of the schedule may be in summary form with a reference to a detailed reporting in the other section of the schedule.

§ __.510 Audit findings.

(a) **Audit findings reported.** The auditor shall report the following as audit findings in a schedule of findings and questioned costs:

(1) Reportable conditions in internal control over major programs. The auditor's determination of whether a deficiency in internal control is a reportable condition for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement. The auditor shall identify reportable conditions which are individually or cumulatively material weaknesses.

(2) Material noncompliance with the provisions of laws, regulations, contracts, or grant agreements related to a major program. The auditor's determination of whether a noncompliance with the provisions of laws, regulations, contracts, or grant agreements is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement.

(3) Known questioned costs which are greater than \$10,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor shall also report known questioned costs when likely questioned costs are greater than \$10,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor shall include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

(4) Known questioned costs which are greater than \$10,000 for a Federal program which is not audited as a major program. Except for audit follow-up, the auditor is not required under this part to perform audit procedures for such a Federal program; therefore, the auditor will normally not find questioned costs for a program which is not audited as a major program. However, if the auditor does become aware of questioned costs for a Federal program which is not audited as a major program (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than \$10,000, then the auditor shall report this as an audit finding.

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(5) The circumstances concerning why the auditor's report on compliance for major programs is other than an unqualified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs for Federal awards.

(6) Known fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to make an additional reporting when the auditor confirms that the fraud was reported outside of the auditor's reports under the direct reporting requirements of GAGAS.

(7) Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with § __.315(b) materially misrepresents the status of any prior audit finding.

(b) Audit finding detail. Audit findings shall be presented in sufficient detail for the auditee to prepare a corrective action plan and take corrective action and for Federal agencies and pass-through entities to arrive at a management decision. The following specific information shall be included, as applicable, in audit findings:

(1) Federal program and specific Federal award identification including the CFDA title and number, Federal award number and year, name of Federal agency, and name of the applicable pass-through entity. When information, such as the CFDA title and number or Federal award number, is not available, the auditor shall provide the best information available to describe the Federal award.

(2) The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.

(3) The condition found, including facts that support the deficiency identified in the audit finding.

(4) Identification of questioned costs and how they were computed.

(5) Information to provide proper perspective for judging the prevalence and consequences of the audit findings, such as whether the audit findings represent an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined and be quantified in terms of dollar value.

(6) The possible asserted effect to provide sufficient information to the auditee and Federal agency, or pass-through entity in the case of a subrecipient, to permit them to determine the cause and effect to facilitate prompt and proper corrective action.

(7) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.

(8) Views of responsible officials of the auditee when there is disagreement with the audit findings, to the extent practical.

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(c) **Reference numbers.** Each audit finding in the schedule of findings and questioned costs shall include a reference number to allow for easy referencing of the audit findings during follow-up.

§ __.515 Audit working papers.

(a) **Retention of working papers.** The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the auditee, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, or pass-through entity to extend the retention period. When the auditor is aware that the Federal awarding agency, pass-through entity, or auditee is contesting an audit finding, the auditor shall contact the parties contesting the audit finding for guidance prior to destruction of the working papers and reports.

(b) **Access to working papers.** Audit working papers shall be made available upon request to the cognizant or oversight agency for audit or its designee, a Federal agency providing direct or indirect funding, or GAO at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this part. Access to working papers includes the right of Federal agencies to obtain copies of working papers, as is reasonable and necessary.

§ __.520 Major program determination.

(a) **General.** The auditor shall use a risk-based approach to determine which Federal programs are major programs. This risk-based approach shall include consideration of: Current and prior audit experience, oversight by Federal agencies and pass-through entities, and the inherent risk of the Federal program. The process in paragraphs (b) through (i) of this section shall be followed.

(b) **Step 1.**

(1) The auditor shall identify the larger Federal programs, which shall be labeled Type A programs. Type A programs are defined as Federal programs with Federal awards expended during the audit period exceeding the larger of:

(i) \$300,000 or three percent (.03) of total Federal awards expended in the case of an auditee for which total Federal awards expended equal or exceed \$300,000 but are less than or equal to \$100 million.

(ii) \$3 million or three-tenths of one percent (.003) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed \$100 million but are less than or equal to \$10 billion.

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(iii) \$30 million or 15 hundredths of one percent (.0015) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed \$10 billion.

(2) Federal programs not labeled Type A under paragraph (b)(1) of this section shall be labeled Type B programs.

(3) The inclusion of large loan and loan guarantees (loans) should not result in the exclusion of other programs as Type A programs. When a Federal program providing loans significantly affects the number or size of Type A programs, the auditor shall consider this Federal program as a Type A program and exclude its values in determining other Type A programs.

(4) For biennial audits permitted under § __.220, the determination of Type A and Type B programs shall be based upon the Federal awards expended during the two-year period.

(c) Step 2.

(1) The auditor shall identify Type A programs which are low-risk. For a Type A program to be considered low-risk, it shall have been audited as a major program in at least one of the two most recent audit periods (in the most recent audit period in the case of a biennial audit), and, in the most recent audit period, it shall have had no audit findings under § __.510(a). However, the auditor may use judgment and consider that audit findings from questioned costs under § __.510(a)(3) and § __.510(a)(4), fraud under § __.510(a)(6), and audit follow-up for the summary schedule of prior audit findings under § __.510(a)(7) do not preclude the Type A program from being low-risk. The auditor shall consider: the criteria in § __.525(c), § __.525(d)(1), § __.525(d)(2), and § __.525(d)(3); the results of audit follow-up; whether any changes in personnel or systems affecting a Type A program have significantly increased risk; and apply professional judgment in determining whether a Type A program is low-risk.

(2) Notwithstanding paragraph (c)(1) of this section, OMB may approve a Federal awarding agency's request that a Type A program at certain recipients may not be considered low-risk. For example, it may be necessary for a large Type A program to be audited as major each year at particular recipients to allow the Federal agency to comply with the Government Management Reform Act of 1994 (31 U.S.C. 3515). The Federal agency shall notify the recipient and, if known, the auditor at least 180 days prior to the end of the fiscal year to be audited of OMB's approval.

(d) Step 3.

(1) The auditor shall identify Type B programs which are high-risk using professional judgment and the criteria in § __.525. However, should the auditor select Option 2 under Step 4 (paragraph (e)(2)(i)(B) of this section), the auditor is not

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required to identify more high-risk Type B programs than the number of low-risk Type A programs. Except for known reportable conditions in internal control or compliance problems as discussed in § __.525(b)(1), § __.525(b)(2), and § __.525(c)(1), a single criteria in § __.525 would seldom cause a Type B program to be considered high-risk.

(2) The auditor is not expected to perform risk assessments on relatively small Federal programs. Therefore, the auditor is only required to perform risk assessments on Type B programs that exceed the larger of:

(i) \$100,000 or three-tenths of one percent (.003) of total Federal awards expended when the auditee has less than or equal to \$100 million in total Federal awards expended.

(ii) \$300,000 or three-hundredths of one percent (.0003) of total Federal awards expended when the auditee has more than \$100 million in total Federal awards expended.

(e) **Step 4.** At a minimum, the auditor shall audit all of the following as major programs:

(1) All Type A programs, except the auditor may exclude any Type A programs identified as low-risk under Step 2 (paragraph (c)(1) of this section).

(2) (i) High-risk Type B programs as identified under either of the following two options:

(A) **Option 1.** At least one half of the Type B programs identified as high-risk under Step 3 (paragraph (d) of this section), except this paragraph (e)(2)(i)(A) does not require the auditor to audit more high-risk Type B programs than the number of low-risk Type A programs identified as low-risk under Step 2.

(B) **Option 2.** One high-risk Type B program for each Type A program identified as low-risk under Step 2.

(ii) When identifying which high-risk Type B programs to audit as major under either Option 1 or 2 in paragraph (e)(2)(i)(A) or (B), the auditor is encouraged to use an approach which provides an opportunity for different high-risk Type B programs to be audited as major over a period of time.

(3) Such additional programs as may be necessary to comply with the percentage of coverage rule discussed in paragraph (f) of this section. This paragraph (e)(3) may require the auditor to audit more programs as major than the number of Type A programs.

(f) **Percentage of coverage rule.** The auditor shall audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass at least 50 percent of total Federal awards expended. If the auditee meets the criteria in § __.530 for a low-risk auditee, the auditor need only audit as major programs Federal programs

with Federal awards expended that, in the aggregate, encompass at least 25 percent of total Federal awards expended.

(g) Documentation of risk. The auditor shall document in the working papers the risk analysis process used in determining major programs.

(h) Auditor's judgment. When the major program determination was performed and documented in accordance with this part, the auditor's judgment in applying the risk-based approach to determine major programs shall be presumed correct. Challenges by Federal agencies and pass-through entities shall only be for clearly improper use of the guidance in this part. However, Federal agencies and pass-through entities may provide auditors guidance about the risk of a particular Federal program and the auditor shall consider this guidance in determining major programs in audits not yet completed.

(i) Deviation from use of risk criteria. For first-year audits, the auditor may elect to determine major programs as all Type A programs plus any Type B programs as necessary to meet the percentage of coverage rule discussed in paragraph (f) of this section. Under this option, the auditor would not be required to perform the procedures discussed in paragraphs (c), (d), and (e) of this section.

(1) A first-year audit is the first year the entity is audited under this part or the first year of a change of auditors.

(2) To ensure that a frequent change of auditors would not preclude audit of high-risk Type B programs, this election for first-year audits may not be used by an auditee more than once in every three years.

§ __.525 Criteria for Federal program risk.

(a) General. The auditor's determination should be based on an overall evaluation of the risk of noncompliance occurring which could be material to the Federal program. The auditor shall use auditor judgment and consider criteria, such as described in paragraphs (b), (c), and (d) of this section, to identify risk in Federal programs. Also, as part of the risk analysis, the auditor may wish to discuss a particular Federal program with auditee management and the Federal agency or pass-through entity.

(b) Current and prior audit experience.

(1) Weaknesses in internal control over Federal programs would indicate higher risk. Consideration should be given to the control environment over Federal programs and such factors as the expectation of management's adherence to applicable laws and regulations and the provisions of contracts and grant agreements and the competence and experience of personnel who administer the Federal programs.

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(i) A Federal program administered under multiple internal control structures may have higher risk. When assessing risk in a large single audit, the auditor shall consider whether weaknesses are isolated in a single operating unit (e.g., one college campus) or pervasive throughout the entity.

(ii) When significant parts of a Federal program are passed through to subrecipients, a weak system for monitoring subrecipients would indicate higher risk.

(iii) The extent to which computer processing is used to administer Federal programs, as well as the complexity of that processing, should be considered by the auditor in assessing risk. New and recently modified computer systems may also indicate risk.

(2) Prior audit findings would indicate higher risk, particularly when the situations identified in the audit findings could have a significant impact on a Federal program or have not been corrected.

(3) Federal programs not recently audited as major programs may be of higher risk than Federal programs recently audited as major programs without audit findings.

(c) Oversight exercised by Federal agencies and pass-through entities.

(1) Oversight exercised by Federal agencies or pass-through entities could indicate risk. For example, recent monitoring or other reviews performed by an oversight entity which disclosed no significant problems would indicate lower risk. However, monitoring which disclosed significant problems would indicate higher risk.

(2) Federal agencies, with the concurrence of OMB, may identify Federal programs which are higher risk. OMB plans to provide this identification in the compliance supplement.

(d) Inherent risk of the Federal program.

(1) The nature of a Federal program may indicate risk. Consideration should be given to the complexity of the program and the extent to which the Federal program contracts for goods and services. For example, Federal programs that disburse funds through third party contracts or have eligibility criteria may be of higher risk. Federal programs primarily involving staff payroll costs may have a high-risk for time and effort reporting, but otherwise be at low-risk.

(2) The phase of a Federal program in its life cycle at the Federal agency may indicate risk. For example, a new Federal program with new or interim regulations may have higher risk than an established program with time-tested regulations. Also, significant changes in Federal programs, laws, regulations, or the provisions of contracts or grant agreements may increase risk.

(3) The phase of a Federal program in its life cycle at the auditee may indicate risk. For example, during the first and last years that an auditee participates in a Federal program, the risk may be higher due to start-up or closeout of program activities and staff.

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(4) Type B programs with larger Federal awards expended would be of higher risk than programs with substantially smaller Federal awards expended.

§ __.530 Criteria for a low-risk auditee.

An auditee which meets all of the following conditions for each of the preceding two years (or, in the case of biennial audits, preceding two audit periods) shall qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with § __.520:

(a) Single audits were performed on an annual basis in accordance with the provisions of this part. A non-Federal entity that has biennial audits does not qualify as a low-risk auditee, unless agreed to in advance by the cognizant or oversight agency for audit.

(b) The auditor's opinions on the financial statements and the schedule of expenditures of Federal awards were unqualified.

However, the cognizant or oversight agency for audit may judge that an opinion qualification does not affect the management of Federal awards and provide a waiver.

(c) There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS. However, the cognizant or oversight agency for audit may judge that any identified material weaknesses do not affect the management of Federal awards and provide a waiver.

(d) None of the Federal programs had audit findings from any of the following in either of the preceding two years (or, in the case of biennial audits, preceding two audit periods) in which they were classified as Type A programs:

- (1) Internal control deficiencies which were identified as material weaknesses;**
- (2) Noncompliance with the provisions of laws, regulations, contracts, or grant agreements which have a material effect on the Type A program; or**
- (3) Known or likely questioned costs that exceed five percent of the total Federal awards expended for a Type A program during the year.**

Appendix A to Part __ - Data Collection Form (Form SF-SAC) [PDF]

Appendix B to Part __ - Circular A-133 Compliance Supplement

Note: Provisional OMB Circular A-133 Compliance Supplement is available from the Office of Administration, Publications Office, room 2200, New Executive Office Building, Washington, DC 20503.

Billing Code 3110-01-P

[Text from Indian Affairs Manual, Part 5, Chapter 2, Management Accountability Single Audits, issued 08/29/97, IAM Release #97-03; Replaces 14 BIAM]

2.1 Purpose. The purpose of this chapter is to provide policies and procedures to be followed for resolution and close out of single audits.

2.2 Authority.

- A. Title 5 U.S.C., Appendix, Inspector General Act (P.L. 95-452), as amended;**
- B. Title 25 U.S.C. §450 et seq., Indian Self-Determination and Education Assistance Act (P.L. 93-638), as amended;**
- C. Title 25 U.S.C. §2501 et seq., Tribally Controlled School Grants;**
- D. Title 31 U.S.C., Chapter 75, Requirements for Single Audits;**
- E. Title 25 CFR, Part 900, Contracts under the Indian Self-Determination and Education Assistance Act; and**
- F. Title 43 CFR, Part 12, Administrative and Audit Requirements and Cost Principles for Assistance Programs.**

2.3 Guidance.

- A. Office of Management and Budget (OMB) Circulars:**
 - (1) A-50, Audit followup;**
 - (2) A-102, Grants and Cooperative Agreements with State and Local Governments;**
 - (3) A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations;**
 - (4) A-128, Audits of State and Local Governments (applies to audits for fiscal periods beginning on or before June 30, 1996); and**

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(5) **A-133, Audits of States, Local governments, and Non-Profit Organizations** (applies to audits for fiscal periods beginning after June 30, 1996, and for prior periods for some tribal organizations which are organized as nonprofit organizations).

B. Departmental Manual:

- (1) **Part 360, Departmental Audits; and**
- (2) **Part 361, Audit Followup.**

C. Catalog of federal Domestic Assistance

2.4 Policy. It is the policy of Indian Affairs to provide timely resolution of single audit reports; to provide technical assistance to grantees; and to report, as required, to other Departmental offices.

2.5 Handbook. The "single audit Resolution Handbook" is available from:

Office of Audit and Evaluation 1849 C Street NW, Mail Stop 2559 MIB Washington, D.C. 20240 (202) 208-1916	or	Office of Audit and Evaluation P.O. Box 25007, D-119 Denver, CO 80225-0007 (303) 236-9787
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2.6 Training. The Office of audit and Evaluation provides training for Federal, tribal, and school employees on the single Audit process. Contact either of the offices above for additional information.

2.7 Definitions.

A. Awarding Officials include contracting Officers; Education Line Officers; and others who have been delegated authority to award Self-Determination contracts, Self-Governance compacts, or other grant assistance on behalf of the Secretary.

B. Grantee, as used in this chapter, includes tribes, tribal organizations, tribal consortia, and school boards which receive funding from Indian Affairs under a Self-determination contract or grant, a Self-Governance compact, or any other authorized grant program, such as the Indian Child Welfare Act or the Tribally Controlled community Colleges Act.

C. Disallowed cost means a questioned cost identified by the auditor that the awarding official determines should not have been charged to the Federal financial assistance program.

D. Federal Financial Assistance includes assistance that grantees receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, direct appropriations, and other assistance.

E. Findings and Determination (F&D) means an awarding official's written decision as to whether the audit findings have been addressed satisfactorily and whether questioned costs have been reinstated or disallowed.

F. Management Decision means the determination by an Indian Affairs official that actions taken, or proposed to be taken, by the grantee will correct the deficiencies cited in the audit.

G. Questioned Cost means a cost that is questioned by the auditor because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; a finding that, at the time of the audit, such cost is not supported by adequate documentation; or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable.

H. Reinstated Cost means a questioned cost that an Indian Affairs official has determined is an allowable charge to a Federal financial assistance program.

I. Resolved Audit means that the Office of Inspector General (OIG) has accepted the management decision concerning the audit findings.

J. single audit means an audit of the grantee's financial statements and the Federal awards which is conducted by an independent audit organization pursuant to the single audit Act.

K. Sustained cost is another term for a disallowed cost.

2.8 Responsibilities.

A. Audit Liaison Officer (ALO):

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- (1) Provides required reports to designated Departmental officials on the status of unresolved audits and uncollected audit debt;
- (2) Provides assistance to awarding officials in resolving and closing single audits;
- (3) Ensures that the Catalog of Federal Domestic Assistance contains current, accurate information for all Indian Affairs Federal financial assistance programs;
- (4) Provides training and other technical assistance to grantees and to Federal employees as required or requested; and
- (5) Established and maintains an automated tracking system to provide management information on the status of all single audits.

B. Director, Office of Self-governance, Director, Office of Indian Education programs, and Area Directors:

- (1) Ensure timely resolution of single audits referred by the OIG; and
- (2) Take appropriate action when audit findings indicate significant management problems or material weaknesses which put Federal resources in jeopardy, when disallowed costs have not been repaid, or when an audit has not been performed within the prescribed time;

C. Awarding Officials:

- (1) Resolve single audit reports and prepare management decisions within 90 days of the date the audit was issued by the OIG;
- (2) Determine allowability of questioned costs;
- (3) Request that the Division of Accounting Management issue a bill for collection, if applicable;
- (4) Offer to assist grantees in developing corrective action plans if there are findings of non-compliance or internal control weaknesses; and
- (5) Identify issues requiring technical assistance and request such assistance.

D. Chief, Division of Accounting Management:

- (1) Issues bills for collection and performs other required debt collection activities, as necessary, for audit related debt; and
- (2) Submits monthly report on audit-related debts to the ALO.

2.9 Audits Referred to Indian Affairs For Resolution.

A. Awarding Officials are to:

(1) Review available information provided in the grantee's response to the audit, or in contract or grant files, or in reports of on-site Indian Affairs' reviews, or any other relevant data to determine if the audit can be resolved with the information at hand. In some cases, the awarding official may be able to make determinations about questioned costs based on the grantee's response contained in the audit report.

(2) Request additional information if the audit lacks a response from the grantee or if the awarding official determines that other supporting material is required. the awarding official is to contact the grantee within fourteen (14) calendar days of receipt of the audit. The letter should request a response from the grantee within thirty (30) calendar days.

(3) Make a Management Decision. Failure of the grantee to provide documents supporting the expenditure of Federal funds for questioned items does not relieve the awarding official of the responsibility for issuing a management decision on the allowability of such questioned costs.

(a) If all questioned costs are reinstated and all findings are resolved, the awarding official will notify the OIG by memorandum, with copy to the grantee, and recommend that the audit be closed. If an F&D is issued, a copy should be provided to the OIG. As shown in Illustration 1, however, it is not necessary to prepare an F&D if there are no unresolved findings or disallowed costs.

(b) If some or all of the questioned costs are disallowed, the awarding official will issue a formal notice to the grantee, by certified mail, of the finds and determination and of the grantee's appeal rights under 25 CFR 2, 25 CFR 900, and 43 CFR 4 (Illustration 2). The OIG will be notified of the management decision by memorandum, attaching a copy of the F&D (Illustration 3). At the same time, a request to issue a Bill for Collection should be sent to the Division of Accounting Management.

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B. The ALO, with the concurrence of the awarding official, may make a management decision on behalf of Indian Affairs when no costs are disallowed and when all findings have been satisfactorily addressed by the grantee. Copies of the ALO's memorandum to the OIG will be provided to the awarding official and to the grantee.

2.10 Collection of Disallowed Costs. Once the awarding official has determined that certain costs are disallowed, these amounts are debts owed by the grantee. The audit cannot be closed until final disposition of the debt. Depending upon the circumstances and the decision of the awarding official, audit related debt may be resolved.

A. By a payment from the grantee's general fund to the grantee's Federal funds of the disallowed amount if the underlying award agreement is still open. In this case, no funds are remitted to the Bureau of Indian Affairs. The awarding official is to provide documentation of the financial transfer to the ALO.

B. By payment from the grantee to the Bureau of Indian Affairs. The check or money order will be immediately forwarded to the Division of Accounting Management with a field receipt identifying the amount as repayment of disallowed costs related to the specific audit, citing the contract or grant number, and identifying the fiscal year and program to which the funds should be credited.

2.11 Reinstatement of previously Disallowed Costs. Subsequent to the awarding official's decision to disallow costs, the grantee may provide additional information which is sufficient for the awarding official to determine that some or all of the previously disallowed costs should be reinstated. In situations such as this, the awarding official should issue a revised F&D, provide a copy to the ALO, and request that the Division of Accounting Management revise or cancel the Bill for Collection as appropriate.

2.12 Compromise of Audit Related Debt.

A. The Assistant Secretary - Indian Affairs may reduce, forgive, or authorize the writeoff of audit related debt when the total amount owed by the grantee is less than \$5,000. Note: The \$5,000 limit includes all debt owed by the grantee to Indian Affairs, not just the amount owed under one audit. A request to the Assistant Secretary should be submitted through the cognizant area director, Director, Office of Indian Education Programs, or director, Office of Self-governance. The request should include sufficient information concerning the financial resources of the grantee for the Assistant secretary to render an informed decision. If the debt is reduced or forgiven, a copy of the decision memorandum should be provided immediately to the division of Accounting Management.

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B. The solicitor and Regional Solicitors may reduce or forgive audit related debts when the total indebtedness of the grantee does not exceed \$100,000.

C. The Department of Justice has sole jurisdiction to compromise debts in excess of \$100,000.

2.13 Time Limitation. Disallowed costs may not be billed or collected if the F&D is issued more than 365 calendar days following receipt of the single audit by the OIG.

A. Audits With No Outstanding Disallowed Costs. Management decisions on single audits are reviewed by the OIG. If the response is acceptable, the OIG provides notification to the official who made the management decision.

(1) If the ALO made the management decision, the OIG provides the awarding official with a copy of the memorandum to the ALO. The awarding official is to provide a copy to the grantee.

(2) If the awarding official made the management decision, the OIG provides the ALO with a copy of the memorandum to the awarding official. The awarding official is to provide a copy of the OIG memorandum to the grantee.

B. Audits With Disallowed Costs. Resolved audits with outstanding disallowed costs are referred by the OIG to the Assistant Secretary - Policy, Management and Budget (PMB) for tracking of collection efforts.

(1) Documentation of collection, compromise, or reinstatement of disallowed costs must be provided to PMB through the ALO.

(2) PMB provides notification to the ALO that the audit has been closed and the ALO will forward that information to the awarding official.

C. Audits Lacking a Timely Management Decision. Single audits for which the awarding official has not made a management decision within 120 calendar days of issuance by the OIG are referred to PMB for resolution. The management decision memorandum for these audits must be sent through the ALO to PMB. If PMB determines the management decision to be acceptable, notification is provided to the ALO who will forward the information to the awarding official. If there are outstanding disallowed costs, the audit is tracked for collection as described above.

2.15 Unresolved Single Audits. While the responsibility for a determination regarding questioned costs rests with the awarding official, the resolution of compliance or internal control findings requires positive action on the part of the grantee. In a situation where the grantee fails to take action necessary to resolve material audit findings, the audit remains unresolved and the awarding official will offer technical assistance to the grantee. In serious situations, the awarding official may also consider the options of limiting drawdowns, contract declination, or contract reassumption as authorized in statute and regulations.

**HHS Chapter 1-105
Grants Administration Manual
HHS Transmittal 83.01 (3/25/83)**

Subject: Resolution of Audit Findings

1-105-00 Background and Purpose

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1-105-00 Background and Purpose

- A. The audit process is one of the Government's major controls over the propriety of expenditures under grants, contracts and cooperative agreements. These audits may be performed by Federal, State or local auditors, or independent public accountants, under audit standards established by the Comptroller General of the United States.**
- B. While the very existence of an audit program is important, it is equally important that timely and effective actions be taken to resolve the auditors findings. This Chapter prescribes Departmental policies and procedures for resolving these findings on grants, contracts, and cooperative agreements, and for controlling the audit resolution process.**

1-105-10 Applicability

This Chapter applies to the resolution of all audit findings on grants, contracts, and cooperative agreements, including those contained in preaward reviews of proposed contracts.

1-105-20 Responsibilities for Audit Resolution

A. Assistant Secretary for Management and Budget

The Assistant Secretary for Management and Budget (ASMB) is designated as the HHS official responsible for ensuring that audit recommendations are resolved in a timely manner. In addition, the ASMB is responsible for ensuring that agency determinations made on audit recommendations are actually accomplished.

B. Audit Resolution Council

- 1. The Departmental Audit Resolution Council is responsible for exercising executive level oversight of, and advising the Under Secretary on, the Department's audit resolution activities. The Council is chaired by the Under Secretary and includes the Assistant Secretary for Management and Budget, the General Counsel, the Inspector General, the Deputy Under Secretary for Intergovernmental Affairs, and such other officials as appointed by the Under Secretary. Staff support for the Council is provided by the Office of the Assistant Secretary for Management and Budget and the Office of the Inspector General.**
- 2. The Council will:**
 - a. Review and make recommendations to the Under Secretary on the resolution of audit reports containing total exceptions of \$250,000 or more which the Operating Divisions (OPDIVs) have not resolved within six months;**
 - b. Monitor ongoing OPDIV audit resolution performance; and**
 - c. Consider and, when necessary as a last resort, make recommendations to the Under Secretary concerning Departmentwide safeguards that should be established where organizations refuse to adequately correct deficiencies**

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within a reasonable period of time or fail to comply with agreements on corrective actions.

C. Office of Procurement, Assistance and Logistics

- 1. The Office of Procurement, Assistance and Logistics (OPAL), Office of the Assistant Secretary for Management and Budget, is responsible for resolving all audit findings (management and system deficiencies as well as monetary findings) which affect the programs of more than one OPDIV or Federal department; except those assigned to the Divisions of Cost Allocation or the Deputy Assistant Secretary, Finance as described in Subsections E and F of this Section. OPAL is also responsible for monitoring the completion of resolution action by OPDIVs on program specific findings unique to each OPDIV which are contained in audit reports affecting more than one OPDIV or Federal department. At its discretion in unusual cases, OPAL may resolve such findings.**
- 2. OPAL, in cooperation with the Office of the Inspector General, is also responsible for (a) formulating Department-wide policies and procedures on the resolution of audit findings, (b) approving procedures developed by the OPDIVs to implement these Department-wide policies and procedures, and (c) providing advice and assistance to OPDIVs on audit resolution matters.**

D. Operating Divisions

- 1. The Department's OPDIVs (and, in some cases, STAFFDIVs) are responsible for resolving all audit findings, except those covered in Subsections C, E and F of this Section.**
- 2. Each OPDIV shall designate specify action officials to carry out its audit resolution responsibilities and shall establish internal procedures to implement this Chapter. Each OPDIV shall also designate other officials to carry out the audit liaison, approval, and monitoring functions described in this Chapter.**

E. Divisions of Cost Allocation, Regional Administrative Support Centers

- 1. The Divisions of Cost Allocation (DCAs) are responsible for resolving audit findings related to the negotiation of the following rates and plans for all organizations except commercial (for-profit) concerns:***

- a. Indirect cost rates;
 - b. Research patient care rates and amounts;
 - c. State and local government cost allocation plans;
 - d. Cost allocation plans for Public Assistance Programs;
 - e. Fringe benefit, computer, and other special rates; and
 - f. Deficiencies in policies and costing procedures related to the determination of fringe benefit costs, computer costs, and the costs of other specialized service operations.
2. The DCAs are also responsible for (a) resolving problems (whether disclosed by audit or by other reviews) related to a State's failure to comply with its approved Public Assistance cost allocation plan, where the problems affect the programs of more than one OPDIV or Federal department; and (b) assisting OPAL in conducting follow-up reviews of the implementation of corrective actions on management and system deficiencies.

F. Deputy Assistant Secretary, Finance

The Deputy Assistant Secretary, Finance (DASF), Office of the Assistant Secretary for Management and Budget, is responsible for resolving findings which require action only by the Departmental Federal Assistance Financing System. DASF is also responsible for (1) establishing Department-wide policies and procedures for controlling, collecting and accounting for P monetary audit disallowances; (2) monitoring the collection status of these disallowances; and (3) controlling, accounting for, and collecting disallowances determined by OPAL (except as otherwise provided in Paragraph 1-105-80B.9).

1-105-30 General Audit Resolution Standards

A. Scope of Resolutions

1. The audit resolution process shall include all actions required to fully resolve all issues. Depending on the nature of the problems involved, each resolution shall include:
 - a. Timely correction of management, system and program deficiencies;
 - b. Monitoring the organization to ensure that the corrective actions on significant deficiencies have been adequately implemented and that the system is operating effectively;

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c. Establishing safeguards when necessary to protect the Department's interests where organizations are unwilling or unable to institute timely corrective actions, or subsequently fail to comply with previous agreements on corrective actions; and

d. Recovery (or other settlement in accordance with the claims collection procedures cited in Paragraph 1-105-6OA.2) of any amounts paid but not properly allowable as charges to Federal awards.

***The resolution of audit findings related to the negotiation of these rates for commercial concerns shall be assigned to the appropriate OPDIV (or, in cases where the rates are used by more than one OPDIV, to the OPDIV having the largest monetary interest in the rates).**

2. An Action Official's responsibility with respect to an individual audit report is generally limited to the findings contained in the report. However, issues which are not specifically cited as findings per se should be pursued under the following circumstances:

a. The report contains information which indicates that a serious problem may exist even though it is not cited as a finding;

b. Experience in dealing with a given type of organization indicates that the findings contained in the audit report are frequently indicative of other problems not covered in the report; or

c. The Action Official has specific knowledge of serious problems from other sources.

Where these additional problems appear to exist, the Action Official, prior to raising them with the audited organization, should discuss them with the auditor and, if necessary, ask the auditor for additional information or audit coverage to determine whether the problems do, in fact, exist. Although it may occasionally be necessary to raise the problems described in Subparagraphs b and e after an audit report is issued, these problems should be brought to the attention of the Office of Audit as soon as they are discovered.

B. Timeliness of Resolution

- 1. Action Officials shall resolve audit findings within six months of the end of the month of issuance or release of the audit report by the Office of Audit. For this purpose, resolution is normally deemed to occur when a final decision on the amount of any monetary recovery has been reached; a satisfactory plan of corrective action, including time schedules, to correct all deficiencies has been established; and the report has been cleared from the Department's tracking system by submission and acceptance of an Audit Clearance Document(s) (see Section 1-105-100).* Reports containing total exceptions of \$250,000 or more which are not resolved by OPDIVs within six months are subject to review by the Audit Resolution Council. These reports will be identified through the Office of Audit tracking system.**

- 2. However, it is recognized that in a small number of non-monetary cases, a satisfactory plan of corrective action cannot be obtained from the auditee within the six month period despite the conscientious efforts of Action Officials . In those cases, the finding may be cleared based upon issuance of a final determination on the finding and the corrective action required. Action officials must vigorously continue their efforts to reach agreement with the organization on a satisfactory plan of corrective action, including time schedules, and, if they are unable to reach an agreement within a reasonable period of time, must initiate the safeguard process discussed in Subsection 1-105-50D. Accomplishment of these agreements or placement of appropriate safeguards must be tracked by OPDIV Audit Liaison Offices and for certain audit reports, will be tracked by the Office of Management and Systems, ASMB.**

***It should be noted that the definition of "resolution" for the purpose of applying the six month time standard is different than the definition of this term for purposes of Subsections A and C of this Section. For the purpose of applying the six month standard, "resolution" does not include monitoring the implementation of corrective actions on significant deficiencies or the collection of disallowances. These actions, however, are considered part of the "resolution" process under Subsections A and C.**

C. Documentation

Action Officials shall maintain an audit resolution file(s) or other appropriate records to fully document and justify all actions taken to resolve the findings. This documentation must describe the action taken on each finding and explain the basis for each non-concurrence with any finding or recommendation. The documentation must also identify the target dates for implementation of corrective actions on management and system deficiencies, and identify the procedures followed on, and results of, follow-up reviews on the implementation of the actions. This information must be in sufficient detail to satisfy a reviewer (e.g., an OPDIV official, the Office of Audit, OPAL, GAO) that the findings have been fully, effectively, and appropriately resolved.

1-105-40 Procedures Applicable to all Fundings

A. Review of Audit Reports

1. Upon receipt of an audit report, the Action Official will review both the current and previous reports on the organization as well as the actions taken on prior findings. This review should identify:
 - a. The findings and recommendations, including amounts recommended for disallowance, in the report;
 - b. Whether the report includes full and sufficient information needed to proceed with the resolution with the audited organization;
 - c. Whether previous agreements on corrective action have been properly implemented;
 - d. Whether action responsibility has been properly assigned; and
 - e. Whether the reported information may be indicative of additional areas requiring attention.
2. Any questions raised during this review or at any other stage of the audit resolution process shall be discussed with the auditor. If the review of the report and discussions with the auditor indicate that additional information is needed to make a determination, the Action Official should ask the auditor to provide the information or perform additional audit work. Requests for information or clarification should be directed to the

audit offices likely to have the answers. However, any requests requiring a significant amount of additional audit work should be directed to the Office of Audit's Division of Audit Coordination.

3. If action responsibility is believed to have been improperly assigned, the correct action office (OPDIV Audit Liaison Office, OPAL, DASF or DCA) must be contacted by telephone before the Office of Audit is requested to reassign the report. Disagreements on the assignment of action responsibility will be resolved by the Office of Audit.

B. Review of Organization's Response

1. The auditor's letter transmitting the report to the audited organization will either advise the organization to respond to the Action Official within 30 days on the findings in the report or advise the organization that it will be contacted by the Action Official. In either case, the Action Official shall promptly contact the organization and, as appropriate, remind it to respond, request any needed information, or offer the organization an opportunity to provide any further information it might wish to provide on the report. All of the following information is needed:
 - a. Its specific occurrence or non-concurrence with each finding and recommendation;
 - b. If it agrees with a finding or recommendation, a description of the specific actions taken or planned, including time schedules, to settle the finding or implement the recommendation; and
 - c. If it disagrees with a finding or recommendation, its specific reason(s) for the position.
2. Action Official maintain control records indicating the due date for submission of the organization's response and will immediately contact the organization if the date is not met. This contact will emphasize the importance of timely responses to audit reports and will be noted in the control records or the audit report file. Where justified, an extension period for the submission of the response may be granted.
3. If the Action Official determines that the comments are incomplete or otherwise deficient, the organization will be requested to provide the needed information within a reasonable time.

- 4. The contacts described in Paragraphs 2 and 3 will be confirmed in a letter to the responsible official of the organization. This letter will specify a reasonable due date for submission of the information and will advise the organization that a unilateral determination will be made if the information an acceptable justification for an extension, is not submitted by. date. If the information or an acceptable justification for extension is not submitted by this date, the Action Official will make a unilateral determination on the findings and advise the organization of its right to appeal. If appropriate, the Action Official will initiate the "safeguard" procedures described in Subsection I-ID and/or the actions described in Subsection 1-105-60D.**

- 5. Audited organizations are entitled to full and fair consideration of any arguments and information submitted in support of their positions. However, Action Officials must exercise caution in evaluating information which conflicts with information contained in the audit report or documentation which was not provided to the auditor. When such information is significant, it should be discussed with the auditor and, where needed, referred to the auditor for review and comments.**

1-105-50 Resolution Management and System Deficiencies

A. Determinations

The resolution of management or system deficiencies should be directed at determining whether a deficiency exists, the nature and effect of the deficiency, and the specific actions required to correct it. In order to make these determinations, the Action Official must have a clear understanding of the applicable regulations, the findings, the organization's system, and the organization's proposed corrective actions (if any). In some cases this may be accomplished by a review of the audit report and the organization's response, coupled, to the extent necessary, with a desk review of additional information submitted by the organization, dissuasions with the organization and auditor, etc. In other cases, however, particularly where the deficiencies are serious or complex, it may be necessary to make a site visit to the organization to gain a fuller understanding of its system, the findings, and the proposed corrective actions. In evaluating the proposed corrective actions, the Action Official should obtain and review copies of any new or revised policies, procedures and forms that will be used to implement the corrective actions.

B. Negotiations

If the Action Official concludes that a deficiency exists, he/she should attempt to reach agreement with the organization on the required corrective actions and timetable. If a formal conference is held, the auditor should be asked to attend the conference, in an advisory capacity, if the Action Official feels that the auditor's attendance would be beneficial.

C. Agreements

1. When an agreement on the corrective actions is reached, the agreement must be confirmed in a letter to the responsible official of the organization, and the official should sign and return a copy of the letter. If an agreement is reached on corrective actions for some, but not all, of the deficiencies, the agreement should cover the agreed upon actions, and the unresolved deficiencies should be handled in accordance with paragraph 2 of this Subsection. All agreements on corrective actions must, at a minimum, include the information described in Subparagraphs a. through d. below. The additional information described in Subparagraphs e. through L should also be included in the agreement, as necessary, if the deficiencies are serious or complex or if the corrective actions will take a significant amount of time to implement.
 - a. The specific actions taken or planned to correct each deficiency. These actions should be described in sufficient detail to permit a subsequent determination of the organization's compliance with the agreement.
 - b. The date(s) the actions have been, or will be, implemented.
 - c. Reference to any implementing policies, procedures and forms; or a requirement that they be submitted by a specified date.
 - d. A requirement that the organization obtain the Action Official's advance approval of any modifications to the agreement.
 - e. A statement indicating that a follow-up review will be made.
 - f. A description of any staff training needed to operate the system.

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2. **When safeguards are considered necessary, the Action Official shall attempt to reach an agreement with the organization on the safeguards that are to be applied and shall arrange for the application of those safeguards. This agreement shall be confirmed in a letter to the responsible official of the organization, and the official shall be required to sign and return a copy of the letter.**

3. **If the Action Official is unable to reach an agreement with the organization on appropriate safeguards, he/she shall recommend the safeguards to the appropriate official designated to review and decide on the recommendations.**
 - a. **Where action responsibility is assigned to OPAL, the recommendations will be submitted to the Audit Resolution Council, and, if approved by the Under Secretary, will generally apply to all HHS programs.**

 - b. **Where action responsibility is assigned to an OPDIV, the recommendations will be submitted to the OPDIV head or the OPDIV's chief administrative officer, and will apply only to programs administered by that OPDIV. However, if an OPDIV finds a situation that warrants a Department-wide safeguard, it should recommend the safeguard to OPAL. If OPAL agrees that a Department-wide safeguard is needed, it will recommend the safeguard to the Audit Resolution Council.**

 - c. **Decisions of reviewing officials shall be final except that (1) decisions to suspend or debar an organization from receiving future awards are subject to further review in accordance with 45 CFR part 76 and Subpart 3-1.6 of the HHS Procurement Regulations; and (2) decisions to terminate awards are subject to appeal under applicable appeals procedures.**

 - d. **Final decisions of the reviewing official will be communicated to the organization by registered mail, return receipt requested, with a copy to the Action Official. The Action Official will arrange for implementation of these decisions (or decisions by higher authorities in the case of suspensions, debarments, or terminations).**

 - e. **The approval requirements described above do not apply to (1) safeguards established by the Deputy Assistant Secretary, Finance in connection with the Departmental Federal Assistance Financing System; (2) safeguards established by the DCAs related to the rates and plans**

described in Subsection 1-105-20E; or (3) safeguards established by awarding agencies which relate only to a single program or award.

4. **When a safeguard is established it must be applied consistently to all programs to which it applies, unless a deviation is approved by the head of the OPDIV or his/her designee. Deviations from Department-wide safeguards must also be approved by the Assistant Secretary for Management and Budget.**

E. Follow-Up Corrective Actions

1. **Action Officials will monitor the organization's implementation of actions to correct deficiencies until the deficiencies have been corrected. Resolution of significant deficiencies will not be considered complete until the Action Official has determined, based on a follow-up review, that the actions have, in fact, been taken and have resulted in correction of the deficiencies.**
2. **The Action Official may conduct the follow-up review personally or may request that it be conducted by the Office of Audit or others who possess the capability to perform the review. In either case, however, the Action Official is ultimately responsible for assuring that the review is conducted and for determining whether the deficiencies have been adequately corrected. The review must be initiated as soon as possible after the implementation date of the corrective actions, and except as provided in Paragraph S of this Subsection, no later than six months after that date. In addition, if the corrective actions will take a significant amount of time to implement, the Action Official should monitor the organization's progress by review of progress reports and, where necessary, interim site visits.**
3. **If the follow-up review shows that the organization has not completed all actions needed to fully correct the deficiencies, the Action Official will negotiate the further actions needed and completion dates. The Action Official will continue to follow-up until he/she is satisfied that the organization has fully and effectively corrected the deficiencies.**
4. **If at any time the Action Official finds, through review of progress reports, follow-up review or other means, that the organization is not complying with the resolution agreement to a significant degree, he/she**

will immediately initiate the "safeguard" procedures described in Subsection D of this Section.

5. The six-month period for initiating follow-up reviews may be extended for a reasonable period of time where:
 - a. A follow-up review by the Office of Audit or the next regularly scheduled Federal or non-Federal "A-102/110" audit, which will include a review of the implementation of the corrective actions, will commence soon after the six-month period;
 - b. The nature of the corrective measures are such that six months is not sufficient for the approved system to have run enough of its cycle to allow a meaningful review.

1-105-60 Resolution of Monetary Findings

A. General Rules on Cost Allowability

1. Except as otherwise provided in Subsection B of this Section, all decisions to allow or disallow costs must be based solely on whether they are allowable or unallowable under the applicable cost principles and other provisions of the awards. Action Officials and Approving Officials (see subparagraph 1-105-120A.1.b) have responsibility and authority (subject to appeal) for determining whether costs are allowable or unallowable, and for determining the dollar amount of any unallowable costs. In making these determinations, Action and Approving Officials have some discretion on matters of interpretation. However, such discretion does not include the authority to ignore applicable laws, regulations or policies; or authoritative interpretations issued by the courts, GAO, the Office of General Counsel responsible policy offices or other appropriate authorities.
2. In the resolution of the findings, a clear distinction must be made between the determination of whether a cost is allowable or unallowable and the actual collection of a disallowance. As noted above, Action and Approving Officials have the authority to determine whether a cost is allowable or unallowable and have some discretion in making this determination. However, if a determination is made that a cost is unallowable, the Action and Approving Officials do not have the authority to "waive" (forgive) collection of the disallowance. These disallowances constitute claims by the Government, and may be waived or reduced only under the limited

conditions prescribed in the Federal Claims Collection Act (Public Law 89-508) and implementing procedures (see General Administration Manual Chapters 4-50, 4-60 and 4-70).

3. In determining whether a cost is allowable or unallowable, factors such as the good faith of the organization, its successful accomplishment of program objectives or its ignorance of the provisions of the awards, although important for other purposes, shall not be used as a basis for allowing costs which are unallowable under the provisions of the awards. The organization's ability to make restitution also has no bearing on the allowability of a cost, but should be considered, where necessary, in establishing recovery periods and in determining whether there is justification for reducing or waiving collection of a claim under the Federal Claims Collection Act and implementing procedures.

B. Exceptions

As stated in Subsection A of this Section, the decision to allow or disallow a cost must be based on whether it is allowable under the provisions of the award. There are two situations, however, where an exception to this rule may be permitted.

1. If a transaction requiring prior approval under the provisions of an award is questioned because the approval was not requested, the transaction may be approved retroactively. Retroactive approvals may be granted, however, only where:
 - a. The transaction would have been approved had the organization requested approval in advance;
 - b. The transaction is approved by an official who has the authority to grant such approvals (usually the grants officer or the contracting officer); and
 - c. The organization agrees to institute controls to ensure that prior approval requirements are met in the future.
2. In truly exceptional cases, where strict adherence to an original provision of an award would result in a clear inequity to the organization, the provision may be waived. These waivers may be granted only in highly unusual situations and only where all of the following conditions are met:

- a. The provision is not mandated by law;
- b. The waiver is granted by the official who has authority over the provision (usually the grants officer or the contracting officer) and is approved by a higher level official (unless the original official is the head of the OPDIV);
- c. If the waiver constitutes a deviation from an established regulation or policy (e.g., 45 CFR Part 74, the Grants Administration Manual), it is approved under applicable deviation control procedures; and
- d. The Office of General Counsel has concurred that the waiver is legal.

C. Determinations and Computation of Dollar Amounts

1. General

As indicated in Subsection A of this Section, the Action Official is responsible for determining whether costs are allowable or unallowable, and for determining the dollar amount of any unallowable costs. To make these determinations, the Action Official must have a clear understanding of the applicable regulations, the auditor's findings and the organization's position on the findings; and should obtain whatever additional information he/she feels is necessary to reach an informed conclusion on the issues.

2. Use of Estimates

a. In some cases, the audit report may indicate that it was not possible or feasible to attempt to identify the precise amount of unallowable costs on each award, and that an aggregate amount of the costs for all affected awards was estimated based on an analysis of a representative sample of transactions. These estimates may be based on a statistical sample of the transactions, or, if the use of statistical sampling was clearly impractical under the circumstances, other reasonable and supportable estimating techniques (such as projections based on an analysis of transactions during a representative period of time).

b. The auditor is responsible for developing estimates of any unallowable costs. The Office of Audit's policy on this subject is outlined below; (1) It is the responsibility of the auditor to use any and all extended audit

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procedures as are feasible, practical, and possible to determine to the maximum extent those claimed costs which are clearly allowable and/or unallowable. Since it is the basic responsibility of the contractor/grantee to maintain adequate records, Audit staff shall insist on full cooperation and assistance from contractor/grantee officials during this work.

(2) Audit staff shall continue such additional work until, in their judgment, it is no longer feasible or practical to do so.

(3) The resultant audit report shall very clearly state the existence of this condition (why the records were unauditible); a detailed description of the additional audit work done to determine allowable or unallowable costs; the amounts of the grant(s) the amounts of the costs found allowable, those found not allowable or the amount on which we would not render an opinion; and lastly, very definitive recommendations detailing precisely what must be done by the contractor/grantee to bring their records up to a satisfactory standard."

If an audit report does not contain the appropriate estimates and other information, the auditor should be contacted and asked to provide the information.

c. If the organization disagrees with the use of an estimate or disagrees with the procedures used by the auditor to develop the estimate, it should be offered the option of performing an alternative analysis within a reasonable period of time to develop more precise results. This procedure should also be followed in situations where the auditor indicates that an estimate cannot be developed, but the organization contends that it can be developed and wishes to perform an analysis to develop the estimate. If the organization elects to perform an analysis, there should be an advance agreement on the due date for submission of the analysis and the procedures to be followed in conducting the analysis; and results of the analysis must be carefully reviewed by the Action Official and the auditor.

d. The analyses described in Subparagraph a and/or c will cover the period prescribed in Paragraph C.3 of this Section (or the results of the analysis will be projected to cover this period) and this amount will be used as the basis for a dollar settlement with the organization. If the parties are unable to reach an agreement, the Action Official will make a unilateral determination, notify the organization of the amount that he/she has determined to be unallowable, and advise the organization of its

right to appeal the determination in accordance with applicable appeals procedures (see Subsection E of this Section for additional information concerning the handling of agreements and disagreements).

e. If an estimate of the unallowable costs cannot be developed, the Action Official will follow the procedures described in Subsection D of this Section.

3. Time Period for Computing Disallowances

a. If the Action Official determines that certain costs should be disallowed, the computation of the disallowance will cover the following periods.

(1) If the costs can be identified to specific awards, the computation will cover the period the organization is required to retain records under applicable records retention requirements.

(2) If an overall organization-wide estimate is used, the computation will cover (a) the organization's three fiscal immediately preceding the year in which the audit started, and (b) any subsequent periods up to the date the organization changes its procedures to discontinue the unallowable charges.

b. The time periods described in Subparagraph a will be modified under the following circumstances.

(1) The period will be extended as far back-as possible situations involving fraud or deliberate misrepresentation by an organization.

(2) The period will be appropriately reduced if part of the period was covered by an earlier settlement of the same issue.

(3) The period may be appropriately extended in cases where an organization has submitted a retroactive claim for reimbursement of costs incurred in an earlier period, or has failed to carry out a prior commitment to take corrective action which would have prevented the problem.

D. Inability to Determine Dollar Amounts

- 1. As indicated in Paragraph C.2 of this Section, every effort will be made by the auditors to identify or estimate the amount of any unallowable costs. However, in some cases, the deficiencies may be so serious that costs charged to the awards cannot be supported and it is not possible for the auditor to develop a reasonable and supportable estimate of the amount of unallowable costs. In these situations, the Action Official shall advise the organization in writing that it has not adequately demonstrated the allowability of the costs and shall offer the Organization the opportunity to support the costs by alternative means or to develop a reasonable estimate of any unallowable costs. If the organization submits this information, it should be evaluated by the Action Official and, if necessary, the auditor to determine whether it provides a sufficient basis for allowing the costs or for reaching a dollar settlement with the organization.**

- 2. If the organization does not submit the information, or if the information is inadequate or inconclusive, the Action Official will notify the organization that the costs have not been supported as required by Federal regulations and are therefore disallowed; and that it may appeal this determination in accordance with applicable appeals procedures. If the amounts involved or other circumstances are such that this approach is impractical or inequitable, the following steps shall be taken.**

 - a. The Action Official will notify the grant and contract officials of the affected agencies that the costs have not been supported and will request these officials to arrange for a programmatic evaluation to determine whether the charges to the projects or programs appear reasonable in relation to the work performed. If there are a large number of projects or programs involved, these evaluations may be performed on a sampling basis and projected to the total amount of the charges.**

 - b. Responsible program officials shall perform an evaluation to determine whether the charges appear reasonable, and, if they do not appear reasonable, to determine the amount of the excessive charges. To the maximum extent possible, program officials shall complete the evaluations within 30 days. After the evaluations are completed, the results of the evaluations will be transmitted to the Action Official.**

c. If the evaluations indicate that the costs appear reasonable in relation to the work performed, the costs will be allowed. If the evaluations indicate that the costs are unreasonable, the excessive amount will be disallowed. In either case, the Action Official will also ensure that the deficiencies which caused the problem are adequately and promptly corrected, and, if necessary, shall institute the "safeguard" procedures described in Subsection 1-105-50D.

E. Agreements and Disagreements

1. If the Action Official determines that unallowable costs have been charged to Federal awards and the organization agrees with the determination, the agreement will be confirmed in a letter to a responsible official of the organization and the official will be required to sign and return a copy of the letter. This letter will:
 - a. Stipulate the amount of the disallowance;
 - b. State the basis for the disallowance (e.g., statute, regulation, which was violated);
 - c. Set the due date for settlement of the disallowance and request payment for the amount of the disallowance or notify the organization of the appropriate procedure for recovery of the disallowance;*
 - d. Advise the organization that interest will be charged in accordance with the Federal Claims Collection Standards issued by the General Accounting Office and the Department of Justice, and the Fiscal Requirements Manual issued by the Department of Treasury;*
 - e. Advise the organization of other consequences (if any) of the failure to cooperate and pay the debt;
 - f. Advise the organization, if necessary, of the official authorized to negotiate extended payment plans;* and

*See Section 1-105-110 for procedures governing collecting and accounting for disallowances and recoveries.

g. Contain any other information required by applicable OPDIV regulations and/or collection procedures.

This letter shall constitute the initial notification to debtors of the United States as required by the Federal Claims Collection Standards (4 CFR 102.2).

2. If the organization disagrees with the Action Officials determination, the Action Official shall make a unilateral determination, notify the organization by registered mail, return receipt requested, of the amount that he/she determined to be unallowable, and advise the organization of its right to appeal the determination. This notification must include the information described in Paragraph 1 above, plus any additional information required by applicable regulations concerning appeals, such as:

a. The reasons for the determination in sufficient detail to enable the organization to understand the issues and position of the Department;

b. A statement identifying the letter as the final decision of the appropriate responsible official;

c. The regulations under which the appeal is to be made;

d. The board or official to whom the appeal must be submitted; and

e. The period within which the appeal must be submitted.

F. Significant Reports Not Resolved in Six Months

Audit reports containing total exceptions of \$250,000 or more which are not resolved by OPDIVs within six months are subject to review by the Audit Resolution Council. These reports will be identified for the Council by the Office of Audit. OPDIV audit resolution activity shall continue while the review is being conducted.

1-105-70 Preaward Audits

A. OMB Circular A-50 requires audit reports involving recommendations on contractor estimates of future costs to be subject to most of the provisions affecting other audits. Therefore, in addition to the requirements of the Federal

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Procurement Regulations (FPR), resolutions of preaward audits are also subject to the provisions of this policy except that:

- 1. The six-month resolution period does not apply;**
 - 2. The provisions dealing with prerelease reports and billing and accounting for disallowances and recoveries are inappropriate;**
 - 3. The contract or the nonissuance of a contract shall satisfy the agreement/determination letter requirements for monetary resolutions.) Appropriate provisions concerning resolution of non-monetary issues can be included in the contract or separate correspondence as deemed appropriate by the Contracting Office; and**
 - 4. Requirements, other than those noted below, for reporting to the Department on audit resolution matters as discussed in this Chapter do not apply.**
- B. Accordingly, resolution decisions must (1) be made in accordance with the appropriate standards of the FPR and this Chapter, (2) be fully documented in the Contract files along with all appropriate information concerning status of the resolution actions and correction of any non-monetary findings, and (3) be reported to the Office of Audit on an Audit Clearance Document prepared when a contract has been either awarded or not awarded. The Office of Audit will process ACDs just as it does for all other reports and will track and report preaward audit findings as a separate category of findings in its Audit Information System.**

105-80 Coordination of Cross-Cutting Issues

A. General

- 1. Audit findings affecting the programs of more than one OPDIV or Federal department (referred to as "cross-cutting issues") are assigned to a single Action Official (referred to as the "Cognizant Action Official") who is responsible for resolving the findings on behalf of the Department and, in some cases, on behalf of the entire Federal Government. (In HHS, the Cognizant Action Official is usually OPAL or the Regional Division of Cost Allocation.) Specific responsibilities for Government-wide resolution of these issues in connection with audits of educational institutions, including designation of "cognizant agencies", are prescribed in OMB**

Circular A-88. In addition, even where a formal cognizance arrangement has not been established, OMB Circular A-50 requires that Federal agencies coordinate the resolution of audit findings involving cross-cutting issues.

- 2. Where the scope of an audit report is limited to a single program (e.g., a contract closing audit) or to a group of programs administered by a single OPDIV, responsibility for resolving the findings in the report will be assigned by the Office of Audit to the awarding OPDIV. However, in some cases, these reports may also include or refer to cross-cutting issues (e.g., a contract closing audit which qualifies salary charges because of an organization-wide payroll distribution problem). In these situations the cross-cutting issues will be resolved by the Cognizant Action Official, unless responsibility for resolving the issue is delegated by the Cognizant Action Official to the awarding OPDIV. If the cross cutting issue has been, or will be, assigned to the Cognizant Action Official through the issuance of another report, the report assigned to the awarding OPDIV will indicate this fact so that the actions taken by the OPDIV will not conflict with or duplicate the actions of the Cognizant Action Official. If the cross-cutting issue is not to be included in another report, the Office of Audit (or the OPDIV if not done by the Office of Audit) will assign the issue to the Cognizant Action Official. The procedures described in this Paragraph also apply on an inter-department basis in connection with audits of colleges and universities under OMB Circular A-88.**

- 3. Within HHS, OPAL is assigned overall responsibility for most of the audit reports which affect more than one OPDIV, including reports containing cross-cutting findings, those containing single program findings affecting different OPDIVs or a combination thereof. However, individual OPDIVs are usually assigned resolution responsibility for OPDIV-unique findings contained in these reports. Thus, with respect to OPDIV-unique findings, OPAL's role is one of overall monitoring rather than resolution. On these findings, OPAL will inform each OPDIV of its resolution responsibilities, make initial contact with the audited organization, disseminate the organization's initial response to the OPDIVs, monitor the progress of OPDIV resolution actions and receive and forward OPDIV prepared ACDs to the Office of Audit. OPDIVs are responsible for all other resolution activity on these findings including issuance of agreement/determination letters and preparation of ACDs; however, these ACDs are to be submitted to OPAL rather than directly to the Office of Audit.**

4. **If a multi-agency report also includes a finding which relates exclusively to a program(s) of another Federal agency, responsibility for resolving the finding will normally be assigned to that agency.**

B. Coordination Procedures

The resolution of cross-cutting issues will be coordinated in accordance with the procedures described below. These procedures apply to internal coordination within HHS for all cross-cutting issues assigned to OPAL and for issues related to Public Assistance cost allocation plans assigned to the Regional Divisions of Cost Allocation. They also apply to inter-departmental coordination of cross-cutting issues related to colleges and universities under OMB Circular A-88 (excluding indirect cost audits). Inter-departmental coordination of cross-cutting issues not covered by Circular A-88 will be handled on a case-by-case basis and, at a minimum, should include informal consultations with the Federal departments and, in the case of sub-recipients under Federal awards or subawards, those State and local government agencies that have a major financial interest in the issues; and, where possible, distribution of agreements, determination letters, appeals decisions, etc., to all affected parties.

1. **The Office of Audit will distribute copies of the audit report to all affected HHS Action Officials and Audit Liaison Offices and to the audit liaison offices of all other affected Federal departments.**
2. **Each OPDIV and Federal department shall designate an office within the OPDIV or department to serve as a focal point for the purpose of coordinating audit resolution matters.**
3. **Except as provided in Paragraphs A.3 and A.4 of this Section, all communications with the audited organization concerning resolution of the issues will be made by the Cognizant Action Official.**
4. **If a collateral agency wishes to participate actively in the resolution of the issues, it must so advise the Cognizant Action Official within 30 days of the issuance of the audit report. This notification must also include any comments the agency wishes to make on the issues. The Cognizant Action Official may permit extensions of the 30-day period, where Justified, on a case-by-case basis. Comments on the issues may also be provided by collateral agencies not wishing to actively participate in the resolution.**

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submit written comments on the proposed report. The report is normally accompanied by the audited organization's comments on the report.

- B. Under the "Prerelease Procedure", the Action Official's comments on the proposed final report must be submitted within 30 days after issuance of the report using a form called a "Prerelease Notification Document". The Action Official must state on this document whether he/she concurs or does not concur with each finding and recommendation in the report; and, if the Action Official does not concur in a finding or recommendation, must provide the reason for the non-concurrence. When completed and signed by the Action Official the Prerelease Notification Document must be reviewed and countersigned by the designated Approving Official described in Subparagraph 1-105-120A.1.b and transmitted to the appropriate Office of Audit official. Copies of the Document must be sent to all HHS parties shown on the report distribution schedule. At the option of the OPDIV, the Prerelease Notification Document may be routed through the Audit Liaison Office described in Subparagraph 1-105-120A.1.a, or may be transmitted directly to the Office of Audit (after approval by the Approving Official), with a copy to the Audit Liaison Office.**
- C. Other affected parties who wish to do so may submit comments to the Action Official for consideration and inclusion as appropriate in the Prerelease Notification Document.**
- D. Any subsequent intention to deviate from a position stated on the Prerelease Notification Document must be communicated to the issuing Audit Office prior to making a final decision on the issue.**
- E. Further details about the Prerelease Procedure can be found in Chapter 7 of the Office of Audit's Procedures Handbook.**

1-105-100 Audit Clearance Process

A. General

As discussed in Section 1-105-120, there shall be several systems which monitor the progress of the resolution of each audit report: departmental systems maintained by the Office of Audit and several offices of the ASMB; and an OPDIV system maintained by the OPDIV Audit Liaison Office. The Action Official's audit resolution responsibility continues until the report is formally cleared from all systems.

B. Clearance from Office of Audit's System

Reports formally issued or processed by the Office of Audit are given an audit control number and entered into its monitoring system. These audit reports are cleared in the Office of Audit's system by submission and acceptance of Audit Clearance Documents (ACDs).

1. Preparation of Audit Clearance Documents

a. After the Action Official has negotiated or determined a resolution of a finding(s), including any monetary recoveries to be made, he/she prepares the ACD in accordance with Chapter 4 of the Office of Audit's Procedures Handbook.

b. Even though the Action Official's determination may be appealed, the ACD should be prepared and submitted when the original determination is made. If an appeal results in changes to the information on the original ACD, an amended ACD for the items that are changed must be prepared and submitted. The amended ACD must clearly state the nature of the change and how it affects the original ACD. The amended ACD must be processed in the same manner as the original ACD except that General Counsel clearance is not required for changes caused by Appeals Board decisions.

c. As described more fully in the Office of Audit's Procedures Handbook, the Audit Clearance Document must include, as appropriate:

(1) The resolution of each monetary finding;

(2) A brief but informative description of the action taken or planned to correct each deficiency;

(3) Milestones and target dates where several steps need to be taken to correct deficiencies;

(4) A concise explanation of the basis for any nonconcurrence with a finding in the audit report as well as any deviation from a position previously taken on a Prerelease Notification Document;

(5) Office of General Counsel clearance whenever a disagreement with an audit finding is based on an interpretation of a law, rule or regulation

which is different than the interpretation used by the auditor to support the finding; and

(6) Identification of the official who approved the agreement/determination letter (if different than the Approving Official who signs the ACD) and the date such approval was made.

d. As discussed in Section 1-105-110, ACDs also serve as the source documents for entering audit disallowances into the OPDIVs' accounting systems. Accordingly, ACDs, where possible, must identify the appropriation number, the common accounting number, and the grant, contract or cooperative agreement number to which the disallowance applies.

2. Processing Audit Clearance Documents

After the Audit Clearance Document is completed and signed by the Action Official, it must be reviewed and countersigned by the designated Approving Official: cleared, if necessary, by the Office of General Counsel by indication of "concurrence" or "nonconcurrence" and signature; and transmitted to the Audit Liaison Office. The original and two copies of satisfactory ACDs must be submitted by the Audit Liaison Office to the Office of Audit's Division of Audit Coordination, with copies to all HHS parties shown on the audit report distribution schedule. When applicable, a copy must also be provided to the appropriate finance office(s).

C. Clearance from OPDIV Systems

As discussed in Section 1-105-120, the Office of Audit's monitoring system tracks audit findings up to the point that decisions are reached on the amount of any funds to be recovered and agreements are reached on action to correct deficiencies and an ASMB system tracks completion of corrective actions on selected audit reports. However, OPDIV monitoring systems must track all findings until implementation of corrective actions has been confirmed. Accordingly, Action Officials must notify the Audit Liaison Office when such verification has been made.

1-105-110 Collection of and Accounting For Disallowances and Recoveries and (Including Interest Charges)

- A. All audit disallowances must be accounted for, collected and controlled in accordance with the policies and procedures issued by the Office of the Deputy Assistant Secretary, Finance (DASF). These policies and procedures are summarized below, but readers are cautioned to refer to the actual DASF policies and procedures for authoritative information.**

- B. All disallowances must be entered into the OPDIV's, STAFFDIV's and Region's formal accounting records based on information contained in the Audit Clearance Documents submitted to the Office of Audit and/or the agreement/determination letter. Accounting control must be maintained thereafter. Consequently, Audit Liaison Offices (or OPAL) must provide timely notice to appropriate finance offices whenever events occur which affect the status of the disallowances. Examples of the documents that should be submitted and events that should be reported are as follows:**
 - 1. A copy of the ACD and the agreement/determination letter;**
 - 2. Any non-acceptance of an Audit Clearance Document by the Office of Audit;**
 - 3. The filing of an appeal;**
 - 4. The expiration of the appeal period without appeal; and**
 - 5. Details of the final results of an appeal.**

- C. Checks for the amount of the disallowances, together with interest computed in accordance with Subsection F of this Section (if payment is not made within 30 days of the agreement/determination letter) should be sent directly to the appropriate OPDIV, ASMB or Regional finance office. If permitted by DASF procedures, the Action Official may obtain the repayment check. In these cases, the check must be immediately transmitted to the appropriate finance office.**

- D. Follow-up notices and billings will be sent to the debtor organization by the appropriate finance office (or offsets-by negative grant awards-will be made under the Public Assistance Programs where this action is mandated by statute) within 30 days of the issuance of the Action Official's agreement/determination letter described in Subsection 1-10540E. Reminder notices will confirm the due**

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date for payment as being 30 days from the date of that letter. If the organization is unable to pay the full amount by the due date, an extended payment plan may be negotiated. Extended payment plans must be developed by, or in conjunction with, the appropriate finance office and confirmed in a written agreement.

E. If the organization appeals the Action Official's determination, collection actions will be suspended pending a final decision on the appeal, unless otherwise requested by the organization. However, the organization should be notified that if the disallowance is sustained (fully or partially), interest will be charged for the full period stated in Subsection F.

F.

1. As required by the Federal Claims Collection Standards (4 CFR Parts 101-105) and OMB Circular A-50, interest will be charged on the amount of a disallowance which is unpaid as of the "due date". The "due date" shall be 30 days from the date of the Action Official's agreement/determination letter. (It should be noted that the "due date" for repayment of a disallowance relates to the Action Official's agreement/determination letter; it is not extended by the filing of any form of appeal.)*
2. Interest charges on late payments will be computed at the prevailing rate prescribed under Part 6 (Paragraph 8020.20) of the Department of Treasury Fiscal Requirements Manual** for each 30-day period or portion thereof that the payment is late. If the disallowances will be paid in installments (under an extended payment plan), the interest charges will be based on the Department of Treasury's monthly "Schedule of Certified Interest Rates with Range of Maturities".*

*In some cases statutory or other provisions may apply. For example, Section 1 03(d)(5) of the Social Security Act provides for interest in State disputes over Medicaid disallowances to begin at the date of the disallowance determination and to be computed at a rate based on the average of the bond equivalent of the weekly 0-day Treasury bill auction rates during the dispute resolution period.

**The interest rate is transmitted quarterly by the Department of Treasury in a Treasury Fiscal Requirements Manual bulletin issued prior to the start of each quarter.

1-105-120 Internal Monitoring and Reporting

The audit resolution process shall be managed and controlled by the OPDIVs and monitored by the Department to assure that resolutions and collection of disallowances are appropriate, timely, comprehensive, and consistent.

A. OPDIV Monitoring and Reporting

1. Designation of Audit Liaison Offices and Approving Officials

a. Each OPDIV shall formally designate an Audit Liaison Office which must be located within its central administrative office. These Audit Liaison Offices shall be responsible for:

(1) Maintaining a system which tracks each audit finding from the date an audit report is received through final verification of adequate implementation of corrective actions on deficiencies;

(2) Monitoring the timeliness and adequacy of the OPDIV's audit resolution activities;

(3) Distributing all Audit Clearance Documents; and operating a quality control system over the adequacy of the documents as well as Prerelease Notification Documents; and

(4) Preparing or providing information for quarterly reports to ASMFS, the Office of Audit and the DASF on audit resolution and collection activities and such other reports as may be required by the Department.

b. Each OPDIV shall also formally designate Approving Officials for Prerelease Notification Documents, agreement/determination letters, and Audit Clearance Documents. Approving Officials for Prerelease Notification Documents and Audit Clearance Documents shall be at least one level higher than the Action Official. Approving Officials for agreement/determination letters must satisfy the following minimum standards.

(1) If an audit exception exceeds 5100,000, any proposed resolution of that exception which is less than ~5% of the amount recommended by the auditor must be approved by the OPDIV Head or his/her first line Deputy for operations.

(2) All other proposed resolutions must be approved by officials no lower than the OPDIV bureau chief or senior program manager (who can be the OPDIV's top regional commissioner or administrator) ultimately accountable to the Secretary and the Congress for the operational management of the program to which the audit applies.

(3) These approvals must take place before any formal notification of agreements or determination actions are transmitted to audited organizations.

(4) If this official is not also the Approving Official on the ACD, the ACD must identify the official who approved the agreement/determination and the date of that approval.

2. Adequacy of Individual Resolution Actions

Audit Liaison Offices and Approving Officials shall perform meaningful reviews of Prerelease Notification Documents, Audit Clearance Documents, and agreement/determination letters, to assure that they are complete and that the actions or positions taken are appropriate, effective and consistent.

3. Reporting

a. At a minimum, each Action Official shall submit quarterly reports to the Audit Liaison Office and senior OPDIV management on the actions taken to resolve significant findings and the status of each open finding. These reports must be adequately reviewed and appropriate steps taken to improve performance where warranted.

b. Audit Liaison Offices shall submit quarterly reports to the Office of Audit on the resolution status of significant open findings designated by the Office of Audit and to ASMB on the status of implementation of corrective actions, and shall submit such other reports as the Department may require.

c. Agency Finance Offices and/or Audit Liaison Offices shall submit quarterly reports to the Deputy Assistant Secretary, Finance on the collection status of audit disallowances, as required by Departmental policies and procedures.

B. Departmental Monitoring and Reporting

1. Audit Resolution Council

The Departmental Audit Resolution Council is responsible for exercising executive level oversight of the Department's audit resolution activities. The composition and specific functions of the Council are described in Subsection 1-105-20B.

2. Office of Audit, Office of Inspector General

The Office of Audit monitors the overall audit resolution performance of the Department by:

a. Maintaining a Department-wide management information system which tracks all audit findings until final decisions are made on the amount of funds to be recovered and the actions to be taken by recipient organizations to correct deficiencies;

b. Evaluating the adequacy of Audit Clearance Documents and obtaining General Counsel review of resolutions which appear inappropriate;

c. Performing follow-up audits on selected audit reports to determine if recipient organizations have adequately implemented corrective measures and if Action Officials have performed adequately;

d. Obtaining and reviewing quarterly reports on the resolution status of certain significant audit reports; and

e. Performing internal audits of OPDIV audit resolution activities.

3. Deputy Assistant Secretary, Finance

The DASF monitors the collection status of all monetary audit disallowances by means of the Quarterly Reports discussed in Subparagraph A.3.c of this Section.

4. Office of Procurement, Assistance and Logistics

OPAL assists the Audit Resolution Council and the Office of Audit in obtaining corrections of deficiencies in the audit resolution activities of the

OPDIVs and assists the ASMB in monitoring the Department's audit resolution performance.

5. Office of Management Analysis and Systems

The Office of Management Analysis and Systems monitors the status of implementation of corrective actions and OPDIV performance against various audit resolution goals through the Operations Management System.

6. Reporting

The Inspector General and the Assistant Secretary for Management and Budget submit periodic reports to the Secretary and the Audit Resolution Council on Departmental and OPDIV audit resolution and collection performance.

1-105-130 Management Uses of Audit Information

Audit findings, either individually or collectively, may contain information of value beyond the assessment of recipient organization performance. Trends in these findings, in addition to disclosing problems in the operations of recipient organizations, may also be indicative of deficiencies in the operations or policies of the Government.

Accordingly, responsible officials shall be cognizant of these trends, and, where they disclose deficiencies in the Government's operations or policies, shall recommend or initiate prompt corrective actions. Depending on the nature and extent of the deficiencies, these actions may include changes in legislation, regulations, or policies; increased monitoring; improvements in internal procedures and staff training; etc.

[RESERVED]

P

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

APPENDIX P

**UNITED STATES
DEPARTMENT OF THE INTERIOR**

Contract Number

(Bureau or Office)

Contract Date

RELEASE OF CLAIMS

WHEREAS, by the terms of the above-identified contract for

entered into by the United States of America, hereinafter also referred to as the United States, and the contractor whose name appears on the contract as

It is provided that after completion of all work, and prior to final payment, the contractor will furnish the United States with a release of all claims:

NOW, THEREFORE, in consideration of the above premises and the payment by the United States to the contractor of the amount now due under the contract, to wit, the sum of

dollars

(\$ _____), the contractor hereby remises, releases, and forever discharges the United States, its officers, agents, and employees, of and from all manner of debts, dues liabilities, obligations, accounts, claims, and demands whatsoever, in law and equity, under or by virtue of the said contract except:

IN WITNESS WHEREOF, the contractor has executed this release this _____ day of _____, 19 _____

By _____
 _____ (Contractor)
 _____ (Street Number or R.F.D.)
 _____ (City) _____ (State) _____ (Zip Code)
 _____ (Signature)
 _____ (Name - Type or Print)
 _____ (Title)

COMPLETE ONLY IF CONTRACTOR IS A CORPORATION

I, _____ CERTIFY That I am the _____ of the corporation named as contractor herein; that _____, who signed this release on behalf of the corporation, was then _____ of said corporation; and that said release was duly signed for an on behalf of said corporation by authority of its governing body.

[SEAL]

(Signature)

DI-137 (Rev. August 1972)

DOI/HHS INTERNAL AGENCY PROCEDURES HANDBOOK

FHS 3576 (Rev. 2-76)

CONTRACTOR'S RELEASE FOR ALL CONTRACTS

INSTRUCTIONS TO CONTRACTOR: Submit Original and 4 copies. All submitted copies must have original handwritten signature.

Pursuant to the terms of Contract No. _____ and in consideration of the sum of _____ Dollars(\$ _____)

Total of amounts paid and payable
which has been or is to be paid under the said contract to _____
Contractor's name and address

hereinafter called the contractor or to its assignees, if any, the Contractor, upon payment of the said sum by the UNITED STATES OF AMERICA hereinafter called the Government, does remise, release, and discharge the Government, its officers, agents, and employees, of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the said contract, except:

1. Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor, as follows: _____
If none so state

2. Claims, together with reasonable expenses incidental thereto, based upon the liabilities of the Contractor to third parties arising out of the performance of the said contract, which are not known to the Contractor on the date of the execution of this release and of which the contractor gives notice in writing to the Contracting Officer within the period specified in the said contract.

3. Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of the said contract relating to patents.

(The contract sum stipulated above includes unaudited costs in the amount of \$ _____ The contractor agrees, pursuant to the clause in this contract entitled Allowable Cost (for cost reimbursement contracts) or Allowable Cost and Fixed Fee (for CFFF contracts), that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment will be refunded to the Government.)*

The Contractor further agrees, in connection with patent matters and with claims which are not released as set forth above, that it will comply with all of the provisions of the said contract, including without limitation those provisions relating to notification to the Contracting Officer and related to the defense or prosecution of litigation.

IN WITNESS WHEREOF, this release has been executed this _____ day of _____ 19 _____.

WITNESSES _____
Contractor or Corporate name

BY _____
TITLE _____

NOTE: In the case of a corporation, witnesses, are not required, but the certificate below must be completed.

CERTIFICATE

I, _____, certify that I am the _____
Official Title

_____ of the corporation named as contractor in the foregoing release; that _____ who signed said release on behalf of the Contractor was then _____ of said corporation; that said release was duly signed
Official Title

for an in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(CORPORATE SEAL)

*Applicable to contracts where unaudited costs claimed by the contractor are less than \$100,000.

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