

OMB CIRCULAR A-133

COMPLIANCE SUPPLEMENT



March 2002

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

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PART 1 - BACKGROUND, PURPOSE, AND APPLICABILITY

BACKGROUND

The Single Audit Act of 1984 established requirements for audits of States, local governments, and Indian tribal governments that administer Federal financial assistance programs. In 1985, the Office of Management and Budget (OMB) issued OMB Circular A-128, "Audits of State and Local Governments," to provide implementing guidance. In 1990, OMB administratively extended the single audit process to non-profit organizations by issuing OMB Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Organizations."

On July 5, 1996, the President signed the Single Audit Act Amendments of 1996 (31 USC Chapter 75). The 1996 Amendments extended the statutory audit requirement to non-profit organizations and substantially revised various provisions of the 1984 Act. On June 30, 1997, OMB issued final revisions to Circular A-133 (62 FR 35278). The final revisions implement the 1996 Amendments, extend OMB Circular A-133's coverage to States, local governments, and Indian tribal governments, and rescind OMB Circular A-128.

This Compliance Supplement is based on the requirements of the 1996 Amendments and the final revision of OMB Circular A-133 which provide for the issuance of a compliance supplement to assist auditors in performing the required audits. The Senate and House Reports supporting the 1996 Amendments cited studies of the single audit process performed by the General Accounting Office, the President's Council on Integrity and Efficiency and the National State Auditors Association (NSAA). All three studies supported the need for a current compliance supplement. The NSAA study stated, "The Compliance Supplement provides an invaluable tool to both Federal agencies and auditors in setting forth the important provisions of Federal assistance programs. This tool allows Federal agencies to effectively communicate items which they believe are important to the successful management of the program and legislative intent . . . Such a valuable tool requires constant review and update."

This document serves to identify existing important compliance requirements which the Federal Government expects to be considered as part of an audit required by the 1996 Amendments. Without this Supplement, auditors would need to research many laws and regulations for each program under audit to determine which compliance requirements are important to the Federal Government and could have a direct and material effect on a program. Providing this Supplement is a more efficient and cost effective approach to performing this research. For the programs contained herein, this Supplement provides a source of information for auditors to understand the Federal program's objectives, procedures, and compliance requirements relevant to the audit as well as audit objectives and suggested audit procedures for determining compliance with these requirements.

This Supplement also provides guidance to assist auditors in determining compliance requirements relevant to the audit, audit objectives, and suggested audit procedures for programs not included herein. For single audits, this Supplement replaces agency audit guides and other audit requirement documents for individual Federal programs.

OMB Circular A-133 provides that Federal agencies are responsible to annually inform OMB of any updates needed to this Supplement. This responsibility includes ensuring that program objectives, procedures, and compliance requirements, noncompliance with which could have a direct and material effect on these individual Federal programs, are provided to OMB for inclusion in this Supplement, and that agencies keep current these program objectives, procedures, and compliance requirements (including statutory and regulatory citations). To facilitate agency efforts to meet this responsibility, Parts 4 and 5 of this Supplement provide a stand-alone section for each program included in this Supplement which contains program objectives, program procedures, and compliance requirements. For some programs a separate subsection (IV. Other Information), is also included to communicate additional information concerning the program. For example, when a program allows funds to be transferred to another program, subsection IV will provide guidance on how those funds should be treated on the Schedule of Expenditures of Federal Awards and Type A program determinations. See Appendix IV for a list of programs which contain this subsection. These individual sections can be updated or replaced as Federal programs change. Also, sections will be added for additional programs once the program objectives, program procedures, and compliance requirements relevant to the program are written.

PURPOSE AND APPLICABILITY (Part 1)

Purpose

This Supplement is effective for audits of fiscal years beginning after June 30, 2001, and supersedes the OMB Circular A-133 Compliance Supplement issued in March 2001.

OMB Circular A-133 describes the non-Federal entity's responsibilities for managing Federal assistance programs (§ ____.300) and the auditor's responsibility with respect to the scope of audit (§ ____.500). Auditors are required to follow the provisions of OMB Circular A-133 and this Supplement.

Applicability

General

Auditors shall consider this Supplement and the referenced laws, regulations, and OMB Circulars (as codified by Federal agencies in agency regulations) in determining the compliance requirements that could have a direct and material effect on the programs included herein. That is, use of this Supplement is mandatory. Accordingly, adherence to this Supplement satisfies the requirements of OMB Circular A-133. For program-specific audits performed in accordance with a Federal agency's program-specific audit guide, the auditor shall follow such program-specific audit guide. Finally, for major programs not included in this Supplement, the auditor shall follow the guidance in Part 7 and use the types of compliance requirements in Part 3 to identify the applicable compliance requirements which could have a direct and material effect on the program.

Update of Requirements

OMB Circular A-133 provides that Federal agencies are responsible to annually inform OMB of any updates needed to this Supplement. However, auditors should recognize that laws and regulations change periodically and that delays will occur between such changes and revisions to this Supplement. Moreover, auditors should recognize that there may be provisions of contract and grant agreements that are not specified in law or regulation and, therefore, the specifics of such are not included in this Supplement. For example, the grant agreement may specify a certain matching percentage or set a priority for how funds should be spent (e.g., a requirement to not fund certain size projects). Another example is a Federal agency imposing additional requirements on a recipient because it is high-risk in accordance with the A-102 Common Rule, or as part of resolution of prior audit findings.

Accordingly, the auditor should perform reasonable procedures to ensure that compliance requirements are current and to determine whether there are any additional provisions of contract and grant agreements that should be covered by an audit under the 1996 Amendments. Reasonable procedures would be inquiry of non-Federal entity management and review of the contract and grant agreements for programs selected for testing (i.e., major programs).

Safe Harbor Status

Because the suggested audit procedures were written to be able to apply to many different programs administered by many different entities, they are necessarily general in nature. Auditor judgment will be necessary to determine whether the suggested audit procedures are sufficient to achieve the stated audit objectives or whether additional or alternative audit procedures are needed. Therefore, the auditor should **not** consider this Supplement to be a "safe harbor" for identifying the audit procedures to apply in a particular engagement.

However, the auditor can consider this Supplement a "safe harbor" for identification of compliance requirements to be tested for the programs included herein if, as discussed above, the auditor (1) performs reasonable procedures to ensure that the requirements in this Supplement are current and to determine whether there are any additional provisions of contract and grant agreements that should be covered by an audit under the 1996 Amendments, and (2) updates or augments the requirements contained in this Supplement as appropriate.

Responsibility for Other Requirements

Although the focus of this Supplement is on compliance requirements that could have a direct and material effect on a major program, auditors also have responsibility under *Generally Accepted Government Auditing Standards* (GAGAS) for other requirements when specific information comes to the auditors' attention that provides evidence concerning the existence of possible noncompliance that could have a material indirect effect on a major program.

OVERVIEW OF THIS SUPPLEMENT

Matrix of Compliance Requirements (Part 2)

The Matrix of Compliance Requirements (Matrix) identifies the Federal programs and compliance requirements addressed by this Supplement and associates the programs with the applicable compliance requirements. The Matrix also identifies the applicable Federal agency and Catalog of Federal Domestic Assistance (CFDA) number for each program included in this Supplement.

Compliance Requirements (Part 3)

Part 3 lists and describes the 14 types of compliance requirements and, except for Special Tests and Provisions, the related audit objectives that the auditor shall consider in every audit conducted under OMB Circular A-133, with the exception of program-specific audits performed in accordance with a Federal agency's program-specific audit guide. Suggested audit procedures are also provided to assist the auditor in planning and performing tests of non-Federal entity compliance with the requirements of Federal programs. Auditor judgment will be necessary to determine whether the suggested audit procedures are sufficient to achieve the stated audit objectives and whether additional or alternative audit procedures are needed. Determining the nature, timing, and extent of the audit procedures necessary to meet the audit objectives is the auditor's responsibility.

The compliance requirements for Special Tests and Provisions are unique to each Federal program; therefore, compliance requirements, audit objectives, and suggested audit procedures for Special Tests and Provisions are not included in Part 3.

Consistent with the requirements of OMB Circular A-133, this Part includes audit objectives and suggested audit procedures to test internal control. However, the auditor must determine the specific procedures to test internal control on a case by case basis considering factors such as the non-Federal entity's internal control, the compliance requirements, the audit objectives for compliance, the auditor's assessment of control risk, and the audit requirement to test internal control as prescribed in OMB Circular A-133.

Agency Program Requirements (Part 4)

For each Federal program included, Part 4 discusses program objectives, program procedures, and compliance requirements which are specific to the program. With the exception of "N. Special Tests and Provisions," the auditor shall refer to Part 3 for the audit objectives and suggested audit procedures that pertain to the compliance requirements associated with the programs. Since Special Tests and Provisions are unique to the program, the specific audit objectives and suggested audit procedures for the program are included in Part 4 with the exception of audit objectives and suggested audit procedures for internal control which are included in Part 3.

The description of program procedures is general in nature. Some programs may operate somewhat differently than described due to: (1) the complexity of governing Federal and State

laws and regulations; (2) the administrative flexibility afforded non-Federal entities; and, (3) the nature, size, and volume of transactions involved. Accordingly, the auditor should obtain an understanding of the applicable compliance requirements and program procedures in operation at the non-Federal entity to properly plan and perform the audit.

Clusters of Programs (Part 5)

A cluster of programs is a grouping of closely related programs that have similar compliance requirements. The types of clusters are: Research and Development (R&D), Student Financial Aid (SFA), and other clusters. "Other clusters" are as identified in this Supplement or designated in a State award document.

Although the programs within a cluster are administered as separate programs, a cluster of programs is treated as a single program for the purpose of meeting the audit requirements of OMB Circular A-133 (§__ .105). Part 5 provides compliance requirements, audit objectives, and suggested audit procedures for R&D and SFA clusters and lists other clusters.

In planning and performing the audit, the auditor should determine whether programs administered by the non-Federal entity are part of a cluster by referring to the provisions of Part 5 of this Supplement and the State award documents.

Internal Control (Part 6)

As a condition of receiving Federal awards, non-Federal entities agree to comply with applicable laws, regulations, and the provisions of contract and grant agreements, and to maintain internal control to provide reasonable assurance of compliance with these requirements. OMB Circular A-133 requires auditors to obtain an understanding of the non-Federal entity's internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs, 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, unless internal control is likely to be ineffective, perform testing of internal control as planned. Part 6 is intended to assist non-Federal entities and their auditors in complying with these requirements by presenting characteristics of internal control which may be used to reasonably ensure compliance with the types of compliance requirements in Part 3. The characteristics of internal control presented in Part 6 are neither mandatory nor all inclusive.

Guidance for Auditing Programs Not Included in this Compliance Supplement (Part 7)

Part 7 provides guidance to auditors in identifying the compliance requirements and designing tests of compliance with such requirements for programs not included in this Supplement.

Federal Programs Excluded from the A-102 Common Rule (Appendix I)

This Appendix lists block grants and entitlement programs excluded from the requirements of the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" (also known as the "A-102 Common Rule").

Federal Agency Codification of Certain Governmentwide Grants Requirements (Appendix II)

This Appendix provides regulatory citations and Federal agencies' codification of the A-102 Common Rule and OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," in agency regulations. Some agencies have not yet codified the November 1993 revision to OMB Circular A-110 but either are in the process of doing so or have provided such policies to grantees through other means such as grant agreements.

Federal Agency Contacts for A-133 Audits (Appendix III)

This Appendix identifies Federal agency contacts from which auditors can request information or materials about Federal programs or the audit requirements of OMB Circular A-133.

Internal Reference Tables (Appendix IV)

This Appendix provides a listing of programs in Parts 4 and 5 which include "IV. Other Information." This listing allows the auditor to quickly determine which programs have other information such as guidance on Type A and Type B program determination or display on the Schedule of Expenditures of Federal Awards. Also identified in this Appendix is that the Medicaid Cluster is the only program currently identified as higher risk by OMB pursuant to Circular A-133, § ___.525(c)(2).

List of Changes for the 2002 Compliance Supplement (Appendix V)

This Appendix provides a list of changes from the OMB Circular A-133 Compliance Supplement issued in March 2001 to this 2002 Supplement. Also included in this list are references to the date and page numbers for *Federal Register* notices of new regulations not yet codified.

Other OMB Circular A-133 Advisories (Appendix VI)

Reserved.

SAS 70 Examinations of EBT Service Organizations (Appendix VII)

This Appendix provides guidance on audits of State electronic benefits transfer (EBT) service providers (service organizations) regarding the issuance, redemption, and settlement of benefits under the Food Stamps program (CFDA 10.551) in accordance with the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards (SAS) No. 70, Service Organizations.

Compliance Supplement Core Team (Appendix VIII)

This Appendix provides a listing of the Compliance Supplement Core Team members who were responsible for the production of this Supplement.

TECHNICAL INFORMATION

Page Numbering Scheme

The following page numbering scheme is used in this Supplement to facilitate future revisions.

Each page included in Parts 1, 2, 3 (introduction), 6 (introduction), and 7 is identified by a label that represents the part number and sequential page number. A dash (-) separates the part number from the page number. For example, Part 1 is numbered as follows: 1-1, 1-2, 1-3, and so on.

Each page included in Parts 3 (excluding introduction), 4, 5, and 6 (excluding introduction) is identified by a label that represents the part number, section number identifier, and sequential page number. For example, Section A of Part 3 is numbered 3-A-1, 3-A-2, 3-A-3, and so on. The section number identifier for Part 4 represents the CFDA number of the applicable program. For example, the Department of Labor (DOL) Unemployment Insurance program, CFDA number 17.225, is numbered 4-17.225-1, 4-17.225-2, 4-17.225-3, and so on.

Code of Federal Regulations

The Code of Federal Regulations (CFR) is a codification of the rules issued by Federal agencies. The CFR is divided into 50 titles which comprise the broad areas subject to Federal regulation. Each title is further divided into parts and sections, with most references to the CFR being made at this level.

Portions of the CFR are revised daily and these changes are published in the *Federal Register*. However, a revised version of the CFR is published only once each calendar year, on a quarterly basis as follows: titles 1-16 on January 1, titles 17-27 on April 1, titles 28-41 on July 1, and titles 42-50 on October 1.

In the event that changes to a particular section of a title have changed since the last published update of that section, a notation is made in the List of CFR Sections Affected (LSA), which is published monthly. The LSA cites the *Federal Register* page number which contains the changes to the CFR section.

In order to obtain the most current regulations, the user should consult not only the latest version of the CFR, but also the LSA issued in the current month. The *Federal Register* home page (www.access.gpo.gov/nara/) offers links to both the *Federal Register* and the CFR. A beta test site for an updated electronic CFR is available at www.access.gpo.gov/ecfr/. Please note that on-line versions of the CFR may not be the most current available.

HOW TO OBTAIN ADDITIONAL GUIDANCE

Guidance to assist auditors in performing audits in accordance with OMB Circular A-133 can be obtained from the following sources.

Office of Management and Budget

The following information is located under the grants management heading on OMB's Internet home page (www.omb.gov).

- OMB publications, including OMB Circulars and this Supplement for audits under OMB Circular A-133.
- SF-SAC, *Data Collection Form for Reporting on Audits of States, Local Governments, and Non-Profit Organizations*.
- Codification of Certain Governmentwide Grants Requirements by Department (including the Grants Management Common Rule and OMB Circular A-110)

General Services Administration (GSA)

Federal Domestic Assistance Catalog Division
General Services Administration
Room 4032
1800 F Street, NW
Washington DC 20405
Telephone: (202) 208-1582

- Catalog of Federal Domestic Assistance (CFDA).

A searchable copy of the CFDA is available through the Internet on the GSA Home Page (www.cfda.gov). The CFDA is also available in hard copy (from the Government Printing Office), and on machine-readable magnetic tape, high-density floppy diskettes, and CD-ROM (from GSA at 202-208-4296).

Government Printing Office (GPO)

Superintendent of Documents
P.O. Box 371954
Pittsburgh, PA 15250-7954
Telephone: (202) 512-1800

- Catalog of Federal Domestic Assistance.
- Government Auditing Standards (stock number 020-000-00-265-4).
- March 2002 Circular A-133 Compliance Supplement (stock numbers: 041-001-00580-3 (paper) and 041-001-00581-1 (CD-ROM)).

Inspectors General

IGnet Home Page on the Internet (www.ignet.gov) contains an Inspector General Directory and the Inspector General Act.

Federal Audit Clearinghouse

The Federal Audit Clearinghouse acts as an agent for OMB to: (1) establish and maintain a governmentwide database of single audit results and related Federal award information; (2) serve as the Federal repository of single audit reports; and (3) distribute single audit reports to Federal agencies.

The Clearinghouse maintains a site on the Internet at <http://harvester.census.gov/sac/>. For Data Collection Form (SF-SAC) and OMB Circular A-133 submission questions, contact the Federal Audit Clearinghouse by email (govs.fac@census.gov), phone (301-457-1551 (voice) and 800-253-0696 (toll free)), or fax (301) 457-1540. The Form SF-SAC and A-133 Submission should be mailed to Federal Audit Clearinghouse, 1201 E. 10th Street, Jeffersonville, IN 47132.

PART 2 - MATRIX OF COMPLIANCE REQUIREMENTS

INTRODUCTION

This Part identifies the compliance requirements that are applicable to the programs included in this Supplement. Because Part 4 (Agency Program Requirements) and Part 5 (Clusters of Programs) do not include guidance for all types of compliance requirements that pertain to the program, (see introduction to Part 4 for additional information), the auditor should use this Part to identify the types of compliance requirements that are applicable. The boxes for each type of compliance requirement will either contain a "Y" (for yes if the type of compliance requirement may apply) or be shaded (if the program normally does not have activity subject to this type of compliance requirement).

Even though a "Y" indicates that the compliance requirement applies to the Federal program, it may not apply at a particular non-Federal entity, either because that entity does not have activity subject to that type of compliance requirement or the activity could not have a material effect on a major program. For example, even though Real Property Acquisition/Relocation Assistance may apply to a particular program, it would not apply to a non-Federal entity that did not acquire real property covered by the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Similarly, a "Y" may be included under "Procurement;" however, the audit would not be expected to address this type of compliance requirement if the non-Federal entity charges only small amounts of purchases to a major program. The auditor should exercise professional judgment when determining which compliance requirements marked "Y" need to be tested at a particular non-Federal entity.

When a "Y" is present on the matrix and the auditor determines that the requirement should be tested at the non-Federal entity, the auditor should use Part 3, Compliance Requirements, and Parts 4 (or 5), if applicable, in planning and performing the tests of compliance. For example, if a program entry in the matrix includes a "Y" in the Program Income column, Part 3 provides a general description of the compliance requirement. Part 3 also provides the audit objective and the suggested audit procedures for testing program income. Part 4 (or 5) may also include specific information on program income criteria pertaining to the program, such as restrictions on how program income may be used. Part 6, Internal Control, may be useful in assessing control risk and designing tests of internal control with respect to each applicable compliance requirement.

When a compliance requirement is shaded in the matrix, it normally does not apply to the program. However, if specific information comes to the auditor's attention (e.g., during the normal review of the grant agreement or discussions with management) that provides evidence that a compliance requirement shaded in the matrix could have a material effect on a major program, the auditor would be expected to test the requirement. This circumstance should arise infrequently.

CFDA	Types of Compliance Requirements													
	<i>A.</i> <i>Activities Allowed or Unallowed</i>	<i>B.</i> <i>Allowable Costs/Cost Principles</i>	<i>C.</i> <i>Cash Management</i>	<i>D.</i> <i>Davis-Bacon Act</i>	<i>E.</i> <i>Eligibility</i>	<i>F.</i> <i>Equipment and Real Property Management</i>	<i>G.</i> <i>Matching, Level of Effort, Earmarking</i>	<i>H.</i> <i>Period of Availability of Federal Funds</i>	<i>I.</i> <i>Procurement and Suspension and Debarment</i>	<i>J.</i> <i>Program Income</i>	<i>K.</i> <i>Real Property Acquisition/Relocation Assistance</i>	<i>L.</i> <i>Reporting</i>	<i>M.</i> <i>Subrecipient Monitoring</i>	<i>N.</i> <i>Special Tests and Provisions</i>
02 — United States Agency for International Development (USAID)														
02.001*	Y	Y	Y			Y		Y	Y	Y		Y		Y
10 — United States Department of Agriculture (USDA)														
10.001*	Y	Y	Y			Y		Y	Y	Y		Y		Y
10.500	Y	Y	Y			Y	Y	Y	Y	Y		Y		
10.551 10.561	Y	Y	Y		See Part 4	Y	Y	Y	Y			Y	Y	Y
10.553 10.555 10.556 10.559	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	Y
10.557	Y	Y	Y		Y	Y		Y	Y	Y		Y	Y	Y
10.558	Y	Y	Y		Y	Y	Y	Y	Y			Y	Y	Y
10.566	Y	Y	Y		Y	Y	Y	Y	Y			Y		Y
10.568 10.569	Y	Y	Y		Y	Y	Y	Y	Y			Y	Y	Y
10.570	Y		Y		Y			Y	Y			Y	Y	Y

CFDA	Types of Compliance Requirements													
	<i>A.</i> <i>Activities Allowed or Unallowed</i>	<i>B.</i> <i>Allowable Costs/Cost Principles</i>	<i>C.</i> <i>Cash Management</i>	<i>D.</i> <i>Davis-Bacon Act</i>	<i>E.</i> <i>Eligibility</i>	<i>F.</i> <i>Equipment and Real Property Management</i>	<i>G.</i> <i>Matching, Level of Effort, Earmarking</i>	<i>H.</i> <i>Period of Availability of Federal Funds</i>	<i>I.</i> <i>Procurement and Suspension and Debarment</i>	<i>J.</i> <i>Program Income</i>	<i>K.</i> <i>Real Property Acquisition/Relocation Assistance</i>	<i>L.</i> <i>Reporting</i>	<i>M.</i> <i>Subrecipient Monitoring</i>	<i>N.</i> <i>Special Tests and Provisions</i>
10.665 10.666	Y	Y	Y	Y			Y		Y					
10.760	Y	Y	Y			Y	Y	Y	Y			Y		
10.766	Y	Y	Y	Y		Y		Y	Y			Y		
11 — Department of Commerce (DOC)														
11.300 11.307	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y
12 — Department of Defense (DoD)														
12.401	Y	Y	Y	Y		Y	Y	Y	Y	Y		Y		
14 — Department of Housing and Urban Development (HUD)														
14.157	Y	Y	Y	Y	Y	Y			Y		Y			Y
14.181	Y	Y	Y	Y	Y	Y			Y		Y			Y
14.182 14.195 14.856			Y		Y	Y						Y	Y	Y
14.218 14.219	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y

CFDA	Types of Compliance Requirements													
	<i>A.</i> <i>Activities Allowed or Unallowed</i>	<i>B.</i> <i>Allowable Costs/Cost Principles</i>	<i>C.</i> <i>Cash Management</i>	<i>D.</i> <i>Davis-Bacon Act</i>	<i>E.</i> <i>Eligibility</i>	<i>F.</i> <i>Equipment and Real Property Management</i>	<i>G.</i> <i>Matching, Level of Effort, Earmarking</i>	<i>H.</i> <i>Period of Availability of Federal Funds</i>	<i>I.</i> <i>Procurement and Suspension and Debarment</i>	<i>J.</i> <i>Program Income</i>	<i>K.</i> <i>Real Property Acquisition/Relocation Assistance</i>	<i>L.</i> <i>Reporting</i>	<i>M.</i> <i>Subrecipient Monitoring</i>	<i>N.</i> <i>Special Tests and Provisions</i>
14.228	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y
14.231	Y	Y	Y			Y	Y	Y	Y	Y	Y	Y	Y	Y
14.235	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
14.238	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
14.239	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y
14.241	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
14.850		Y	Y		Y	Y		Y	Y			Y		Y
14.854	Y	Y	Y	Y		Y		Y	Y			Y		
14.862	Y	Y	Y			Y	Y	Y	Y	Y	Y	Y	Y	Y
14.867	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
14.871	Y	Y	Y		Y							Y	Y	Y
14.872	Y	Y	Y	Y		Y		Y	Y		Y	Y		
15 — Department of the Interior (DOI)														
15.021	Y	Y				Y		Y	Y	Y		Y		Y
15.022	Y	Y		Y		Y		Y	Y	Y			Y	Y

CFDA	Types of Compliance Requirements													
	<i>A.</i> <i>Activities Allowed or Unallowed</i>	<i>B.</i> <i>Allowable Costs/Cost Principles</i>	<i>C.</i> <i>Cash Management</i>	<i>D.</i> <i>Davis-Bacon Act</i>	<i>E.</i> <i>Eligibility</i>	<i>F.</i> <i>Equipment and Real Property Management</i>	<i>G.</i> <i>Matching, Level of Effort, Earmarking</i>	<i>H.</i> <i>Period of Availability of Federal Funds</i>	<i>I.</i> <i>Procurement and Suspension and Debarment</i>	<i>J.</i> <i>Program Income</i>	<i>K.</i> <i>Real Property Acquisition/Relocation Assistance</i>	<i>L.</i> <i>Reporting</i>	<i>M.</i> <i>Subrecipient Monitoring</i>	<i>N.</i> <i>Special Tests and Provisions</i>
15.030	Y	Y				Y		Y	Y	Y		Y		Y
15.042	Y	Y				Y		Y	Y	Y		Y		Y
15.605 15.611	Y	Y	Y			Y	Y	Y	Y	Y	Y	Y	Y	Y
16 — Department of Justice (DOJ)														
16.579	Y	Y	Y			Y	Y	Y	Y			Y	Y	
16.710	Y	Y	Y			Y	Y	Y	Y			Y	Y	
17 — Department of Labor (DOL)														
17.207 17.801 17.804	Y	Y	Y			Y	Y	Y	Y	Y		Y		
17.225	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y		Y
17.235	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	
17.245	Y	Y	Y		Y	Y		Y	Y	Y		Y	Y	
17.247	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	
17.251	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	

CFDA	Types of Compliance Requirements													
	<i>A.</i> <i>Activities Allowed or Unallowed</i>	<i>B.</i> <i>Allowable Costs/Cost Principles</i>	<i>C.</i> <i>Cash Management</i>	<i>D.</i> <i>Davis-Bacon Act</i>	<i>E.</i> <i>Eligibility</i>	<i>F.</i> <i>Equipment and Real Property Management</i>	<i>G.</i> <i>Matching, Level of Effort, Earmarking</i>	<i>H.</i> <i>Period of Availability of Federal Funds</i>	<i>I.</i> <i>Procurement and Suspension and Debarment</i>	<i>J.</i> <i>Program Income</i>	<i>K.</i> <i>Real Property Acquisition/Relocation Assistance</i>	<i>L.</i> <i>Reporting</i>	<i>M.</i> <i>Subrecipient Monitoring</i>	<i>N.</i> <i>Special Tests and Provisions</i>
17.253	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	Y
17.258 17.259 17.260	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	
17.263	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	
20 — Department of Transportation (DOT)														
20.106	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y
20.205 23.003	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y
20.500 20.507	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y
20.600 20.601 20.602 20.603 20.604 20.605	Y	Y	Y			Y	Y	Y	Y	Y		Y	Y	

CFDA	Types of Compliance Requirements													
	<i>A.</i> <i>Activities Allowed or Unallowed</i>	<i>B.</i> <i>Allowable Costs/Cost Principles</i>	<i>C.</i> <i>Cash Management</i>	<i>D.</i> <i>Davis-Bacon Act</i>	<i>E.</i> <i>Eligibility</i>	<i>F.</i> <i>Equipment and Real Property Management</i>	<i>G.</i> <i>Matching, Level of Effort, Earmarking</i>	<i>H.</i> <i>Period of Availability of Federal Funds</i>	<i>I.</i> <i>Procurement and Suspension and Debarment</i>	<i>J.</i> <i>Program Income</i>	<i>K.</i> <i>Real Property Acquisition/Relocation Assistance</i>	<i>L.</i> <i>Reporting</i>	<i>M.</i> <i>Subrecipient Monitoring</i>	<i>N.</i> <i>Special Tests and Provisions</i>
21 — Department of the Treasury (TREAS)														
21.020	Y	Y	Y		Y	Y	Y		Y			Y	Y	
45 — National Endowment for the Humanities (NEH)														
45.129	Y	Y	Y			Y	Y	Y	Y	Y		Y	Y	
66 — Environmental Protection Agency (EPA)														
66.458	Y	Y	Y			Y	Y	Y	Y	Y	Y	Y	Y	Y
66.468	Y	Y	Y			Y	Y	Y	Y	Y	Y	Y	Y	Y
81 — Department of Energy (DOE)														
81.042	Y	Y	Y		Y	Y	Y		Y	Y		Y	Y	
83 — Federal Emergency Management Administration (FEMA)														
83.543	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	
83.544	Y	Y	Y		Y	Y	Y	Y	Y			Y	Y	Y
83.548	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	
84 — Department of Education (ED)														
84.002	Y	Y	Y			Y	Y	Y	Y			Y	Y	

CFDA	<i>Types of Compliance Requirements</i>													
	<i>A.</i>	<i>B.</i>	<i>C.</i>	<i>D.</i>	<i>E.</i>	<i>F.</i>	<i>G.</i>	<i>H.</i>	<i>I.</i>	<i>J.</i>	<i>K.</i>	<i>L.</i>	<i>M.</i>	<i>N.</i>
	<i>Activities Allowed or Unallowed</i>	<i>Allowable Costs/Cost Principles</i>	<i>Cash Management</i>	<i>Davis-Bacon Act</i>	<i>Eligibility</i>	<i>Equipment and Real Property Management</i>	<i>Matching, Level of Effort, Earmarking</i>	<i>Period of Availability of Federal Funds</i>	<i>Procurement and Suspension and Debarment</i>	<i>Program Income</i>	<i>Real Property Acquisition/Relocation Assistance</i>	<i>Reporting</i>	<i>Subrecipient Monitoring</i>	<i>Special Tests and Provisions</i>
84.010	Y	Y	Y		Y	Y	Y	Y	Y			Y	Y	Y
84.011	Y	Y	Y			Y	Y	Y	Y			Y	Y	Y
84.027 84.173	Y	Y	Y			Y	Y	Y	Y			Y	Y	Y
84.032	See Part 4											Y		Y
84.041	Y	Y		Y			Y					Y		Y
84.042 84.044 84.047 84.066 84.217	Y	Y	Y		Y	Y	Y	Y	Y			Y		
84.048	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	Y
84.126	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		
84.181	Y	Y	Y			Y	Y	Y	Y			Y		
84.186	Y	Y	Y		Y	Y	Y	Y	Y			Y	Y	Y
84.276	Y	Y	Y			Y	Y	Y	Y			Y	Y	Y

CFDA	Types of Compliance Requirements													
	<i>A.</i> <i>Activities Allowed or Unallowed</i>	<i>B.</i> <i>Allowable Costs/Cost Principles</i>	<i>C.</i> <i>Cash Management</i>	<i>D.</i> <i>Davis-Bacon Act</i>	<i>E.</i> <i>Eligibility</i>	<i>F.</i> <i>Equipment and Real Property Management</i>	<i>G.</i> <i>Matching, Level of Effort, Earmarking</i>	<i>H.</i> <i>Period of Availability of Federal Funds</i>	<i>I.</i> <i>Procurement and Suspension and Debarment</i>	<i>J.</i> <i>Program Income</i>	<i>K.</i> <i>Real Property Acquisition/Relocation Assistance</i>	<i>L.</i> <i>Reporting</i>	<i>M.</i> <i>Subrecipient Monitoring</i>	<i>N.</i> <i>Special Tests and Provisions</i>
84.278	Y	Y	Y		Y		Y					Y	Y	Y
84.281	Y	Y	Y		Y	Y	Y	Y	Y			Y	Y	Y
84.282	Y	Y	Y		Y	Y	Y	Y	Y			Y	Y	
84.287	Y	Y	Y			Y	Y	Y	Y	Y		Y		Y
84.288 84.290 84.291	Y	Y	Y			Y	Y	Y	Y			Y		Y
84.298	Y	Y	Y			Y	Y	Y	Y			Y	Y	Y
84.318	Y	Y	Y			Y	Y	Y	Y			Y	Y	Y
84.338	Y	Y	Y		Y		Y	Y	Y			Y	Y	Y
84.340	Y	Y	Y			Y	Y	Y	Y			Y	Y	Y
93 — Department of Health and Human Services (HHS)														
93.044 93.045	Y	Y	Y			Y	Y	Y	Y	Y		Y	Y	
93.210	Y	Y			Y			Y		Y				
93.217	Y	Y	Y			Y	Y	Y	Y	Y		Y	Y	

CFDA	<i>Types of Compliance Requirements</i>													
	<i>A.</i>	<i>B.</i>	<i>C.</i>	<i>D.</i>	<i>E.</i>	<i>F.</i>	<i>G.</i>	<i>H.</i>	<i>I.</i>	<i>J.</i>	<i>K.</i>	<i>L.</i>	<i>M.</i>	<i>N.</i>
	<i>Activities Allowed or Unallowed</i>	<i>Allowable Costs/Cost Principles</i>	<i>Cash Management</i>	<i>Davis-Bacon Act</i>	<i>Eligibility</i>	<i>Equipment and Real Property Management</i>	<i>Matching, Level of Effort, Earmarking</i>	<i>Period of Availability of Federal Funds</i>	<i>Procurement and Suspension and Debarment</i>	<i>Program Income</i>	<i>Real Property Acquisition/Relocation Assistance</i>	<i>Reporting</i>	<i>Subrecipient Monitoring</i>	<i>Special Tests and Provisions</i>
93.151 93.224 93.246	Y	Y	Y			Y		Y	Y	Y		Y		Y
93.268	Y	Y	Y		Y			Y	Y	Y		Y	Y	Y
93.556	Y	Y	Y			Y	Y	Y	Y			Y		
93.558	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	Y
93.563	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	Y
93.566	Y	Y	Y		Y			Y	Y			Y		
93.568	Y	Y	Y		Y		Y	Y	Y			Y	Y	
93.569	Y	Y	Y		Y		Y	Y	Y				Y	
93.575 93.596	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	
93.600	Y	Y	Y	Y		Y	Y	Y	Y	Y		Y	Y	Y
93.645	Y	Y	Y				Y	Y	Y			Y		
93.658	Y	Y	Y		Y	Y	Y	Y	Y			Y	Y	
93.659	Y	Y	Y		Y	Y	Y	Y	Y			Y	Y	

CFDA	Types of Compliance Requirements													
	<i>A.</i> <i>Activities Allowed or Unallowed</i>	<i>B.</i> <i>Allowable Costs/Cost Principles</i>	<i>C.</i> <i>Cash Management</i>	<i>D.</i> <i>Davis-Bacon Act</i>	<i>E.</i> <i>Eligibility</i>	<i>F.</i> <i>Equipment and Real Property Management</i>	<i>G.</i> <i>Matching, Level of Effort, Earmarking</i>	<i>H.</i> <i>Period of Availability of Federal Funds</i>	<i>I.</i> <i>Procurement and Suspension and Debarment</i>	<i>J.</i> <i>Program Income</i>	<i>K.</i> <i>Real Property Acquisition/Relocation Assistance</i>	<i>L.</i> <i>Reporting</i>	<i>M.</i> <i>Subrecipient Monitoring</i>	<i>N.</i> <i>Special Tests and Provisions</i>
93.667	Y	Y	Y				Y	Y	Y				Y	
93.767	Y	Y	Y		Y		Y	Y	Y	Y		Y	Y	
93.775 93.777 93.778	Y	Y	Y		Y		Y	Y	Y	Y		Y	Y	Y
93.914	Y	Y	Y		Y		Y	Y	Y	Y		Y	Y	
93.917	Y	Y	Y		Y	Y	Y	Y	Y	Y		Y	Y	
93.918	Y	Y	Y			Y	Y	Y	Y	Y		Y		
93.958	Y	Y	Y			Y	Y	Y	Y				Y	Y
93.959	Y	Y	Y			Y	Y	Y	Y			Y	Y	Y
93.991	Y	Y	Y			Y	Y	Y	Y	Y		Y	Y	
93.994	Y	Y	Y			Y	Y	Y	Y	Y		Y	Y	
94 — Corporation for National and Community Service (CNCS)														
94.006	Y	Y	Y		Y		Y	Y	Y	Y		Y	Y	
94.011 94.016	Y	Y	Y		Y		Y	Y	Y	Y		Y		

CFDA	Types of Compliance Requirements													
	A. <i>Activities Allowed or Unallowed</i>	B. <i>Allowable Costs/Cost Principles</i>	C. <i>Cash Management</i>	D. <i>Davis-Bacon Act</i>	E. <i>Eligibility</i>	F. <i>Equipment and Real Property Management</i>	G. <i>Matching, Level of Effort, Earmarking</i>	H. <i>Period of Availability of Federal Funds</i>	I. <i>Procurement and Suspension and Debarment</i>	J. <i>Program Income</i>	K. <i>Real Property Acquisition/Relocation Assistance</i>	L. <i>Reporting</i>	M. <i>Subrecipient Monitoring</i>	N. <i>Special Tests and Provisions</i>
96 — Social Security Administration (SSA)														
96.001 96.006	Y	Y	Y			Y		Y	Y			Y		
Clusters of Programs														
R&D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
SFA	Y		Y		Y		Y	Y	Y	Y		Y	Y	Y

Legend:

Y — Yes, this type of compliance requirement may apply to the Federal program.



— Shaded box indicates the program normally does not have activity subject to this type of compliance requirement.

* --- Program does not have a CFDA number, so the Part IV page number is used.

PART 3 - COMPLIANCE REQUIREMENTS

INTRODUCTION

The objectives of most compliance requirements for Federal programs administered by States, local governments, Indian tribal governments, and non-profit organizations are generic in nature. For example, most programs have eligibility requirements for individuals or organizations. While the criteria for determining eligibility vary by program, the objective of the compliance requirement that only eligible individuals or organizations participate is consistent across all programs.

Rather than repeat these compliance requirements, audit objectives, and suggested audit procedures for each of the programs contained in Part 4 - Agency Program Requirements and Part 5 - Clusters of Programs, they are provided once in this part. For each program in this Compliance Supplement (this Supplement), Part 4 or Part 5 contains additional information about the compliance requirements that arise from laws and regulations applicable to each program, including the requirements specific to each program that should be tested using the guidance in this part.

Administrative Requirements

The administrative requirements that apply to most programs arise from two sources: the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" (also known as the "A-102 Common Rule") and OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," and the agencies' codification of OMB Circular A-110. The applicable guidance followed depends on the type of organization undergoing audit. Other administrative compliance requirements unique to a single program or a cluster of programs, are provided in the Special Tests and Provisions sections of Parts 4 and 5.

State, Local, and Indian Tribal Governments

Governmentwide guidance for administering grants and cooperative agreements to States, local governments, and Indian tribal governments is contained in the A-102 Common Rule which was codified by each Federal funding agency in its volume of the *Code of Federal Regulations*. The A-102 Common Rule section numbers are referred to without the Federal agency's part number (e.g., § ____ .37 would refer to sections in all agency regulations). This allows auditors to refer to the same section numbers when discussing administrative issues with different Federal funding agencies.

These requirements apply to all grants and subgrants to governments, except grants and subgrants to State or local (public) institutions of higher education and hospitals, and except where they are inconsistent with Federal statutes or with regulations authorized in accordance with the exception provision of the A-102 Common Rule. Block grants authorized by the Omnibus Budget Reconciliation Act of 1981 and several other specifically identified grants or payment programs are exempted from the A-102 Common Rule. Appendix I to this Compliance Supplement lists legislation and programs where exclusions exist.

In some cases the A-102 Common Rule permits States to follow their own laws and procedures, e.g., when addressing equipment management. These are noted in the sections that follow. The auditor will have to refer to an individual State's rules in those situations.

Non-Profit Organizations

The major source of requirements applicable to institutions of higher education, hospitals and other non-profit organizations is OMB Circular A-110. The provisions of OMB Circular A-110 are codified in agency regulations, generally following the section numbers in the circular. The OMB Circular A-110 section numbers are referred to similar to the A-102 Common Rule references. However, unlike the A-102 Common Rule, agencies with OMB approval, could modify certain provisions of A-110 to meet their special needs. OMB Circular A-110 states "Federal agencies responsible for awarding and administering grants . . . shall adopt the language in the circular unless different provisions are required by Federal statute or are approved by OMB." Subpart A, §____.4, of OMB Circular A-110 states that "Federal awarding agencies may apply more restrictive requirements to a class of recipients when approved by OMB." Federal awarding agencies may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by Federal awarding agencies.

Appendix II to this supplement contains a list of agencies that have codified OMB Circular A-110 and the CFR citations for these codifications.

Subrecipients

Governmental subrecipients are subject to the provisions of the A-102 Common Rule. However, the A-102 Common Rule permits States to impose their own requirements on their governmental subrecipients, e.g., equipment management or procurement. Thus, in some circumstances, the auditor may need to refer to State rules and regulations rather than Federal requirements.

All subrecipients who are institutions of higher education, hospitals, or other non-profits, regardless of the type of organization making the subaward, shall follow the provisions of OMB Circular A-110 as implemented by the agency when awarding or administering subgrants except under block grants authorized by the Omnibus Budget Reconciliation Act of 1981 and the Job Training Partnership Act where State rules apply instead.

Compliance Requirements, Audit Objectives, and Suggested Audit Procedures

Auditors shall consider the compliance requirements and related audit objectives in Part 3 and Part 4 or 5 (for programs included in this Supplement) in every audit of non-Federal entities conducted under OMB Circular A-133, with the exception of program-specific audits performed in accordance with a Federal agency's program-specific audit guide. In making a determination not to test a compliance requirement, the auditor must conclude that the requirement either does not apply to the particular non-Federal entity or that noncompliance with the requirement could not have a material effect on a major program (e.g., the auditor would not be expected to test Procurement if the non-Federal entity charges only small amounts of purchases to a major program). The descriptions of the compliance requirements in Parts 3, 4, and 5 are generally a

summary of the actual compliance requirements. The auditor should refer to the referenced citations (e.g., laws and regulations) for the complete compliance requirements.

The suggested audit procedures are provided to assist auditors in planning and performing tests of non-Federal entity compliance with the requirements of Federal programs. Auditor judgment will be necessary to determine whether the suggested audit procedures are sufficient to achieve the stated audit objective and whether additional or alternative audit procedures are needed.

The suggested procedures are in lieu of specifying audit procedures for each of the programs included in this Supplement. This approach has several advantages. First, it provides guidelines to assist auditors in designing audit procedures that are appropriate in the circumstance. Second, it helps auditors develop audit procedures for programs that are not included in this Supplement. Finally, it simplifies future updates to this Supplement.

Internal Control

Consistent with the requirements of OMB Circular A-133, this Part includes generic audit objectives and suggested audit procedures to test internal control. However, the auditor must determine the specific procedures to test internal control on a case by case basis considering factors such as the non-Federal entity's internal control, the compliance requirements, the audit objectives for compliance, the auditor's assessment of control risk, and the audit requirement to test internal control as prescribed in OMB Circular A-133.

A. ACTIVITIES ALLOWED OR UNALLOWED

Compliance Requirements

The specific requirements for activities allowed or unallowed are unique to each Federal program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining to the program. For programs listed in the Compliance Supplement, these specific requirements are in Part 4 - Agency Program Requirements or Part 5 - Clusters of Programs, as applicable. This type of compliance requirement specifies the activities that can or cannot be funded under a specific program.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 §___.500(c).
2. Determine whether Federal awards were expended only for allowable activities.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for activities allowed or unallowed and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in §___.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

1. Identify the types of activities which are either specifically allowed or prohibited by the laws, regulations, and the provisions of contract or grant agreements pertaining to the program.
2. When allowability is determined based upon summary level data, perform procedures to verify that:
 - a. Activities were allowable.

- b. Individual transactions were properly classified and accumulated into the activity total.
3. When allowability is determined based upon individual transactions, select a sample of transactions and perform procedures to verify that the transaction was for an allowable activity.
4. The auditor should be alert for large transfers of funds from program accounts which may have been used to fund unallowable activities.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

B. ALLOWABLE COSTS/COST PRINCIPLES

Applicability of OMB Cost Principles Circulars

The following OMB cost principles circulars prescribe the cost accounting policies associated with the administration of Federal awards by non-profit organizations, States, local governments, and Indian tribal governments. However, for block grants authorized by the Omnibus Budget Reconciliation Act of 1981 and the Job Training Partnership Act, State rules for expenditures of State funds apply (Appendix 1). Federal awards include Federal programs and cost-type contracts and may be in the form of grants, contracts, and other agreements.

- OMB Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments"
- OMB Circular A-21, "Cost Principles for Educational Institutions"
- OMB Circular A-122, "Cost Principles for Non-Profit Organizations"

States, local governments, and Indian tribal governments are subject to OMB Circular A-87. All institutions of higher education are subject to the cost principles contained in OMB Circular A-21 which incorporates the four Cost Accounting Standards Board (CASB) Standards and the Disclosure Statement (DS-2) requirements as described in paragraphs C.10 through C.14 and Appendices A and B of OMB Circular A-21. Non-profit organizations are subject to OMB Circular A-122, except those non-profit organizations listed in Attachment C of OMB Circular A-122. These non-profit organizations are not subject to OMB Circular A-122 but are subject to the commercial cost principles contained in the Federal Acquisition Regulation (FAR). Also, by contract terms and conditions, some non-profit organizations may be subject to the CASB's Standards and the Disclosure Statement (DS-1) requirements.

Federal awards administered by publicly-owned hospitals and other providers of medical care are exempt from OMB's cost principles circulars, but are subject to requirements promulgated by the sponsoring Federal agencies (45 CFR part 74, appendix E).

The cost principles applicable to a non-Federal entity apply to all Federal awards received by the entity, regardless of whether the awards are received directly from the Federal Government or indirectly through a pass-through entity.

The circulars describe selected cost items, allowable and unallowable costs, and standard methodologies for calculating indirect costs rates (e.g., methodologies used to recover facilities and administrative costs (F&A) at institutions of higher education).

The cost principles articulated in the three circulars are in most cases substantially identical but a few differences do exist. These differences are necessary because of the nature of the Federal/State/local/non-profit organization relationship, programs administered, and breadth of services offered by some grantees and not others. Exhibit 1, Selected Cost Items Not Treated the Same Among the Circulars, lists selected cost items for which treatment are not substantially identical among the cost principles circulars. Exhibit 2, Selected Unallowable Cost Items, lists selected items that are unallowable in one or more of the cost principles circulars.

Availability of Other Information

Additional information on cost allocation plans and indirect cost rates is found in the Department of Health and Human Services (HHS) publications: *A Guide for State, Local and Indian Tribal Governments* (ASMB C-10); the *Review Guide for States and Local Governments State/Local-Wide Central Service Cost Allocation Plans and Indirect Cost Rates*; and *Review Guide for Long-Form University Facilities & Administrative Cost Proposals* which are available on the Internet at <http://rates.psc.gov>.

Additional information on indirect cost rate determination for non-profit organizations is found in the Department of Labor publication *Indirect Cost Rate Determination Guide* which is available on the Internet at www.dol.gov/dol/oasam/public/programs/guide.htm.

Compliance Requirements - Allowability of Costs - General Criteria (applicable to both direct and indirect costs)

The general criteria affecting allowability of costs under Federal awards are:

- Costs must be reasonable and necessary for the performance and administration of Federal awards.
- Costs must be allocable to the Federal awards under the provisions of the cost principles or CASB Standards, as applicable. A cost is allocable to a particular cost objective (e.g., a specific function, program, project, department, or the like) if the goods or services involved are charged or assigned to such cost objective in accordance with relative benefits received.
- Costs must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances was allocated to the Federal award as an indirect cost.
- Costs must conform to any limitations or exclusions set forth in the circulars, Federal laws, State or local laws, sponsored agreements or other governing regulations as to types or amounts of cost items.
- Costs must be net of all applicable credits that result from transactions that reduce or offset direct or indirect costs. Examples of such transactions include purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments for overpayments or erroneous charges.
- Costs must be documented in accordance with OMB Circular A-110 for non-profit organizations or the A-102 Common Rule for State, local and Indian Tribal governmental units.

Compliance Requirements - Indirect Costs

Indirect costs are those costs that benefit common activities and, therefore, cannot be readily assigned to a specific direct cost objective or project.

In order to recover indirect costs, organizations must prepare cost allocation plans (CAPs) which apply only to States, local and Indian tribal governments or indirect cost rate proposals (IDCRPs) in accordance with the guidelines provided in OMB's circulars. States, major local governments, Indian tribal governments, institutions of higher education, and non-profit organizations must submit CAPs or IDCRPs to the Federal cognizant agency for indirect cost negotiation for approval. Other organizations, such as smaller local governments, must prepare the appropriate CAPs or IDCRPs and maintain them on file for review. These other organizations may use the allocation methods and indirect cost rate maintained on file for cost recovery.

At institutions of higher education, indirect costs include the following categories: building and equipment depreciation or use allowance, operation and maintenance expenses, interest expenses, general administrative expenses, departmental administration expenses, library expenses, and student administration expenses.

At non-profit organizations, indirect costs generally include general administrative costs (e.g., the president's office, payroll, general accounting) and facility costs (e.g., rental costs, operations and maintenance, interest expense) that are not treated as direct costs.

For F&A rate proposals submitted on or after July 1, 2001, institutions of higher education shall use the standard format shown in Appendix C to OMB Circular A-21 to submit their F&A rate proposal to the cognizant agency for indirect costs. The cognizant agency for indirect costs may, on an institution-by-institution basis, grant exceptions from all or portions of Part II of the standard format. This requirement does not apply to institutions of higher education which use the simplified method for calculating F&A rates, as described in Section H to OMB Circular A-21.

The indirect cost proposals prepared by institutions of higher education and other non-profit organizations are based on the most current financial data supported by the organization's accounting system and audited financial statements. These indirect cost proposals can be used to either establish predetermined or fixed indirect cost rates, or to establish or finalize provisional rates.

There are three types of plans/proposals submitted by States, local governments, and Indian tribal governments:

1. *State and Local Governmentwide CAPs* - These plans are used to allocate service center costs (or Section I costs) to individual departments and agencies and describe the methods used for charging billed costs (or Section II costs) to individual user organizations or activities.
2. *Department or Local IDCRP* - These rate proposals combine the billed and allocated costs from the State-wide or local-wide plan with departmental or local

level indirect costs and compute an indirect cost rate to be used in charging indirect costs to individual programs and activities.

3. *Public Assistance CAPs* - These CAPs describe the methods for allocating State-wide or local-wide allocated and/or billed indirect costs and departmental indirect, administrative, and operating costs of State or local welfare or human services organizations to the Medicaid, Food Stamps and welfare programs, etc. These plans are required by the terms of 45 CFR part 95, which incorporates OMB Circular A-87 by reference, and they must be revised and resubmitted to the Federal Government whenever an organizational or programmatic change invalidates the currently-approved allocation method.

At States, local governments, and Indian tribal governments, indirect costs are accumulated at two levels: the State/local-wide level and the department/agency level. At the State/local-wide level, indirect costs include: (1) central service costs that are allocated (referred to as Section I costs, which typically include general accounting, personnel, and purchasing); and, (2) central service costs that are billed (referred to as Section II costs, which typically include computer services, motor pool, insurance, and fringe benefits). Certain costs, such as facilities and operations and maintenance, can be classified as Section I or Section II costs by State/local governments.

At State or local governmental departments or agencies, where Federal awards are usually carried out, indirect costs normally include the facilities and administrative costs of each department or agency and the allocated central service costs distributed through the State/local-wide CAP. Additionally, Section II costs are direct charges to these departments or agencies. As such, these direct billings may be charged directly to Federal awards or be included in the department or agency indirect cost pools.

CAPs are comprised of two parts: a narrative section that describe the service cost center and allocation methodologies, and a mathematical allocation of these service center costs to the user departments using the described allocation methods. CAPs and IDCRCs prepared by States, local governments, and Indian tribal governments usually are prepared on a prospective basis using actual financial data for a prior year or budget data for the current year. When the actual costs for the year covered by the CAP (or a rate agreement with respect to a fixed rate) are determined, the difference between the costs recovered based on the CAP (or rate agreement) and the costs that would have been recovered had the CAP or rate agreement been based on actual results is either carried forward to a subsequent CAP or IDCRC or used to adjust individual awards on a retroactive basis, with the approval of the Federal cognizant agency for indirect cost negotiation.

Three different types of indirect cost rates can be used by the Federal cognizant agency for indirect cost negotiation: predetermined, fixed, and provisional/final. Predetermined rates are established for the current or multiple future period(s) based on current data (usually data from the most recently ended fiscal year, known as the base period). Predetermined rates are not subject to adjustment, except under very unusual circumstances. Fixed rates are based on current data in the same manner as predetermined rates, except that the difference between the costs of the base period used to establish the rate and the actual costs of the current period is carried

forward as an adjustment to the rate computation for a subsequent period. Provisional rates are temporary rates used for funding and billing indirect costs, pending the establishment of a final rate for a period.

Special Compliance Requirements

Disclosure Statements

OMB Circular A-21 requires institutions of higher education that receive more than \$25 million in Federal funding in a fiscal year to prepare and submit a DS-2 that describes the institution's cost accounting practices. These institutions are required to submit a DS-2 within six months after the end of the institution's fiscal year that begins after May 8, 1996, unless the institution is required to submit a DS-2 earlier due to a receipt of a cost accounting standard covered contract in accordance with 48 CFR section 9903.202-1.

These institutions are responsible for maintaining an accurate DS-2 and complying with disclosed cost accounting practices. They are also responsible for filing amendments to the DS-2 when disclosed practices are changed or modified.

Also, by contract terms and conditions, some non-profit organizations may be subject to the CASB's Standards and the DS-1 requirements.

Large Research Facilities Construction Costs

OMB Circular A-21 requires that for large research facilities (those with construction costs of more than \$10 million) of which 40 percent or more of total assignable space is expected for Federal use, an educational institution (institution) must maintain an adequate review and approval process to ensure that construction costs are reasonable. The review process shall address and document relevant factors affecting construction costs, such as:

- Life cycle costs
- Unique research needs
- Special building needs
- Building site preparation
- Environmental consideration
- Federal construction code requirements
- Competitive procurement practices

The approval process shall include review and approval of the projects by the institution's Board of Trustees or other independent entities.

OMB Circular A-21 also requires that for research facilities costing more than \$25 million, of which 50 percent or more of total assignable space is expected for Federal use, the institution must document the review steps performed to assure that construction costs are reasonable. The review should include an analysis of construction costs and a comparison of these costs with relevant construction data, including the National Science Foundation data for research facilities based on its biennial survey, "Science and Engineering Facilities at Colleges and Universities."

Audit Objectives (Both Direct and Indirect Costs)

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 §___.500(c).

Determine whether the organization complied with the provisions of the applicable OMB cost principles circulars (OMB Circulars A-87, A-21, A-122) or CASB Standards as follows:

2. Direct charges to Federal awards were for allowable costs.
3. Charges to cost pools used in calculating indirect cost rates were for allowable costs.
4. For States, local governments, and Indian tribal governments, charges to cost pools allocated to Federal awards through CAPs were for allowable costs.
5. The methods of allocating the costs are in accordance with the applicable cost principles or CASB Standards and produce an equitable and consistent distribution of costs (e.g., cost allocation bases include all allowable and unallowable base costs to which allowable indirect costs are allocable and the cost allocation methodology complies with the applicable cost principles and provides equitable and consistent allocation of indirect costs to benefitting cost objectives).
6. Indirect cost rates were applied in accordance with approved rate agreements and associated billings were the result of applying the approved rate to the proper base amount(s).
7. For States, local governments, and Indian tribal governments, cost allocations were in accordance with CAPs approved by the Federal cognizant agency for indirect cost negotiation or, in cases where such plans are not subject to approval, in accordance with the plan on file.
8. Cost accounting practice disclosures, described in the DS-1 or DS-2 (including amendments), represented actual practice consistently applied. This objective only applies to non-Federal entities that are required to submit the DS-1 or DS-2.
9. The institution's review of large research facilities under construction was documented as required.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for allowable costs/cost principles and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be

ineffective, see the alternative procedures in §___.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.

3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures (Both Direct and Indirect Costs) - Compliance

General

1. The following procedures apply to direct charges to Federal awards as well as to charges to cost pools that are allocated wholly or partially to Federal awards or used in formulating indirect cost rates used for recovering indirect costs from Federal awards. If the auditor identifies unallowable costs, the auditor should be aware that "directly associated costs" may have been charged. Directly associated costs are costs incurred solely as a result of incurring another cost, and would not have been incurred if the other cost had not been incurred. For example, fringe benefits are "directly associated" with payroll costs. When an unallowable cost is incurred, directly associated costs are also unallowable.

Test a sample of transactions for conformance with the following criteria contained in the "Basic Guidelines" section of applicable OMB cost principles circulars.

- a. For State and local governments, authorized or not prohibited under State or local laws or regulations.
- b. Approved by the Federal awarding agency, if required.
- c. Conform with the allowability of costs provisions of applicable cost principles, or limitations in the program agreement, program regulations, or program statute.
- d. Conform with the allocability provisions of applicable cost principles or CASB Standards.
- e. Represent charges for actual costs, not budgeted or projected amounts.
- f. With respect to fringe benefit allocations, charges, or rates, such allocations, charges, or rates are based on the benefits received by different classes of employees within the organization.
- g. Applied uniformly to Federal and non-Federal activities.
- h. Given consistent accounting treatment within and between accounting periods. Consistency in accounting requires that costs incurred for the same purpose, in

like circumstances, be treated as either direct costs only or indirect costs only with respect to final cost objectives.

- i. Calculated in conformity with CASB Standards, generally accepted accounting principles, or another comprehensive basis of accounting, when required under the applicable cost principles or CASB Standards. Costs for post-employment benefits must be funded to be allowable.
- j. Not included as a cost or used to meet cost sharing requirements of other Federally-supported activities of the current or a prior period.
- k. Net of all applicable credits, e.g., volume or cash discounts, insurance recoveries, refunds, rebates, trade-ins, adjustments for checks not cashed, and scrap sales.
- l. Not included as both a direct billing and as a component of indirect costs, e.g., excluded from cost pools included in CAPs and/or IDCRRPs, if charged directly to Federal awards.
- m. Supported by appropriate documentation, such as approved purchase orders, receiving reports, vendor invoices, canceled checks, and time and attendance records, and correctly charged as to account, amount, and period. Documentation requirements for salaries and wages, and time and effort distribution are described in applicable cost principles. Documentation may be in an electronic form.

Internal service, central service, pension, or similar activities or funds

2. When material charges are made from internal service, central service, pension, or similar activities or funds, the auditor should verify that the charges from these activities or funds are in accordance with the applicable cost principles. The auditor should consider procedures, such as:
 - a. For activities accounted for in separate funds, ascertain if: (1) retained earnings/fund balances (including reserves) were computed in accordance with the applicable cost principles; (2) working capital was not excessive in amount (generally not greater than 60 days for cash expenses for normal operations incurred for the period exclusive of depreciation, capital costs and debt principal costs); and, (3) refunds were made to the Federal Government for its share of any amounts transferred or borrowed from internal service, central service, pension, insurance, or other similar activities or funds for purposes other than to meet the operating liabilities, including interest on debt, of the fund.
 - b. Test that all users of services are billed in a consistent manner.
 - c. Test that billing rates exclude unallowable costs, in accordance with applicable cost principles.

- d. Test, where activities are not accounted for in separate funds, that billing rates (or charges) are developed based on actual costs and were adjusted to eliminate profits.
- e. For organizations that have self-insurance and a certain type of fringe benefit programs (e.g. pension funds), ascertain if independent actuarial studies appropriate for such activities are performed at least biennially and that current period costs were allocated based on an appropriate study which is not over two years old.

IDCRP (Testing of the proposal)

3. The IDCRP is based upon costs charged to cost pools representing costs of a base year. The base year often precedes the year in which the IDCRP is prepared and the year the resulting Indirect Cost Rate Agreement (IDCRA) is used to charge indirect costs. For example, a non-Federal entity may submit an IDCRP in January 1998, based upon costs incurred and charged to cost pools during fiscal year ending June 30, 1997 (1997), the base year. The resulting IDCRA negotiated during the year ending June 30, 1998 (1998) would be used as the basis for charging indirect costs to Federal awards in the year ended June 30, 1999 (1999). For this example, the term IDCRA will also include an IDCRP which is not required to be submitted to the Federal agency for indirect cost negotiation but is retained on file and is used to charge indirect costs to Federal awards the same as an approved plan resulting in an IDCRA.

An audit timing consideration is that the audit for 1997 (which covers the applicable cost pools) may be completed before the IDCRP is submitted. Therefore, as part of the 1997 audit, the auditor cannot complete testing of the IDCRP. Also, if the auditor waits to test the IDCRP until 1999 (the year when this IDCRP is first used to charge Federal awards), the auditor would be testing 1997 records, which would then be two years old.

Continuing this example, when the IDCRA is the basis for material charges to a major program in 1999, the auditor for 1999 is required to obtain appropriate assurance that the costs collected in the cost pools and allocation methods are in compliance with the applicable cost principles. The following are some acceptable options the auditor may use to obtain this assurance:

- Perform interim testing of the costs charged to cost pools (e.g., determine from management the cost pools that management expects to include in the IDCRP and test the costs charged to those pools for compliance with the cost principles circulars) during the 1997 audit. As part of the 1998 audit, complete testing and verify management's representation against the IDCRP finally submitted in 1998.
- Test costs charged to the cost pools underlying the IDCRP during the audit of 1998, the year immediately following the base year. This would require testing of 1997 transactions.
- Wait until 1999, the year in which charges from the IDCRA are material to a major program and test costs charged to cost pools (1997) used to prepare the

IDCRP. This is a much more difficult approach because it requires going back two years to audit the cost charged to cost pools of the base year.

Advantages of the first two methods are that the testing of the costs charged to the cost pools occurs closer to the time when the transactions occur (which makes the testing easier to perform) and should there be audit exceptions, corrective action may be taken earlier to minimize questioned costs (which makes audit exceptions easier to resolve). When material indirect costs are charged to any Type A program (determined in accordance with Circular A-133), auditors are strongly encouraged to use one of the first two methods. This is because under the risk-based approach, described in OMB Circular A-133, all Type A programs are required to be considered major programs at least once in every three years and the IDCRA is usually used to charge Federal awards for at least three years.

When the auditee submits the IDCRP, the auditee provides written assurances to the Federal government that the plan includes only allowable costs. Accordingly, any material unallowable costs reflected in the IDCRP should be reported as an audit finding in the year in which they are first found by audit.

An IDCRP may result in an IDCRA that covers only one year, but most often results in a multi-year IDCRA. When an IDCRP has been tested in a prior year and this testing provides the auditor appropriate audit assurance, in subsequent years the auditor is only required to perform tests to ascertain if there have been material changes to the cost accounting practices, including practices that would affect either the cost pools or the allocation base and, if so, that the Federal cognizant agency for indirect cost negotiation has been informed.

The auditor should take appropriate steps to coordinate testing of costs charged to cost pools supporting an IDCRP with the auditee and, as appropriate, with the Federal cognizant agency for indirect cost negotiation. The auditor should consider consulting with the auditee in the base year and the year in which the IDCRP is submitted to determine the best (e.g., most efficient) alternative under the circumstances.

The following procedures are applicable when material charges are made to a major program based upon an IDCRP:

- a. Ascertain if the IDCRP has been tested in a prior year.
 - (1) When the testing performed in a prior year provides appropriate audit assurance, further review of the IDCRP is not required unless there have been material changes to cost accounting practices supporting the IDCRP. To ascertain if there have been material changes, the auditor should inquire of auditee management as to whether any changes have been made to the cost accounting practices and the likely effect of these changes.
 - (2) When the auditor believes the changes in cost accounting practices are material, and the auditee is required to file the IDCRP with a Federal

cognizant agency for indirect cost negotiation, the auditor should ascertain if the Federal cognizant agency for indirect cost negotiation has been appropriately notified of the changes in cost accounting practices. For non-Federal entities that are required to file a DS-1 or DS-2, this testing is performed in Step 6 "DS-1 and DS-2 Requirements."

When prior testing of the IDCRCP does not provide appropriate audit assurance (e.g., was not performed).

- b. Test the cost pools which form the basis of the IDCRCP and the resulting charges to Federal awards to ascertain if they include only allowable costs in accordance with the cost principles or CASB Standards, as applicable. Suggested audit procedure number 1 provides guidance for specific tests.
- c. Test the methods of allocating the costs to ascertain if they are in accordance with the provisions of the cost principles or CASB Standards, as applicable, and produce an equitable distribution of costs. Appropriate detailed tests may include:
 - (1) Test statistical data (e.g., square footage, case counts, salaries and wages) to ascertain if the proposed allocation or rate bases are reasonable, updated as necessary, and do not contain any material omissions.
 - (2) Review time studies or time and effort reports (where and if used) to ascertain if they are mathematically and statistically accurate, are implemented as approved, and are based on the actual effort devoted to the various functional and programmatic activities to which the salary and wage costs are charged.
 - (3) Review the allocation methodology for consistency and test the appropriateness of methods used to make changes.

CAP (Testing of the plan)

- 4. Since costs allocated through CAPs may include current year and prior year costs, the auditor should test the costs charged to cost pools supporting CAPs and the methods of allocating costs from CAPs in each year when these costs are material to a major program. The auditor should consider the following procedures:
 - a. Test the cost pools which form the basis of the CAP and the resulting charges to Federal awards to ascertain if they include only allowable costs in accordance with the applicable cost principles. Suggested audit procedure number 1 provides guidance for specific tests.
 - b. Test the methods of allocating the costs to ascertain if they are in accordance with the applicable provisions of the cost principles and produce an equitable distribution of costs. Appropriate detailed tests may include:

- (1) Test statistical data (e.g., square footage, case counts, salaries and wages) to ascertain if the proposed allocation or rate bases are reasonable, updated as necessary, and do not contain any material omissions.
- (2) Review time studies or time and effort reports (where and if used) to ascertain if they are mathematically and statistically accurate, are implemented as approved, and are based on the actual effort devoted to the various functional and programmatic activities to which the salary and wage costs are charged.
- (3) Review the allocation methodology for consistency and test the appropriateness of methods use to make charges changes.

IDCRA and CAPs (Testing of charges based upon plans)

5. Perform the following procedures to test the application of charges to Federal awards based upon an IDCRA and a CAP.
 - a. Ascertain if material indirect costs or centralized or administrative services costs were allocated or charged to a major program. If not, the following suggested audit procedures b through e do not apply.
 - b. Obtain and read the current IDCRA and/or CAP and determine the terms in effect.

Indirect Cost Rate Agreements

- c. Select a sample of claims for reimbursement and verify that the rates used are in accordance with the rate agreement, that rates were applied to the appropriate bases, and that the amounts claimed were the product of applying the rate to the applicable base. Verify that the costs included in the base(s) are consistent with the costs that were included in the base year (e.g., if the allocation base is total direct costs, verify that current year direct costs do not include costs items that were treated as indirect costs in the base year).

Public Assistance CAPs (for States, local governments, and Indian tribal governments only)

- d. Verify that the methods of charging costs to Federal awards are in accordance with the provisions of the approved CAP or prepared CAP on file.

State and Local Government-Wide CAPs

- e. Ascertain if the amounts used for reimbursement of central service costs for Federal awards were in accordance with the approved CAPs or plans on file, when approval is not required.

DS-1 and DS-2 Requirements (For applicable non-Federal entities)

6. Perform the following procedures for the DS-1 or DS-2, as applicable:
 - a. Read the DS-1 or DS-2 and its amendments and ascertain if the disclosures agree with the policies prescribed in the institution's policies and procedures documents.
 - b. Test that the disclosures agree with actual practices for the period covered by audit, including whether the practices were consistent throughout the period.

Large Research Facilities Construction Costs (For applicable educational institutions)

7. Perform the following procedures related to large research facilities:
 - a. Ascertain if the institution had large research facilities as defined in OMB Circular A-21 under construction. If not, the following suggested audit procedures b and c do not apply.
 - b. For large research facilities under construction of which 40 percent or more of total assignable space is expected for Federal use, review the institution's approval process that should include board minutes or other documentation to ascertain if the institution's Board of Trustees or other independent entity reviewed and approved these construction projects.
 - c. For research facilities under construction costing more than \$25 million of which 50 percent or more of total assignable space is expected for Federal use, ascertain if the institution documented the review steps performed to assure that construction costs are reasonable.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

COMPARISON AMONG OMB COST PRINCIPLES CIRCULARS

The following two exhibits provide comparisons between the OMB cost principles circulars. Exhibit 1 lists selected cost items for which treatment are not substantially identical among the three circulars. Exhibit 2 lists selected items that are unallowable in one or more of the cost principles circulars.

Several cost items are unique to one type of entity and not to other entities (e.g., commencement & convocation costs are only applicable to universities). The numbers in parentheses refer to the cost item in the applicable circulars.

Selected Cost Items Not Treated the Same Among the Circulars			Exhibit 1
Selected Cost Items	A-87 - State, Local & Indian Tribal Governments	A-21 - Educational Institutions	A-122 - Non-Profit Organizations
Advertising & Public Relations	Allowable with restrictions - (2)	Allowable with restrictions - (1)	Allowable with restrictions - (1)
Bad Debts	Unallowable unless provided in program regulations - (7)	Unallowable	Unallowable - (3)
Bonding	Allowable - (8)	Not Addressed	Allowable - (5)
Civil Defense (local)	Not Addressed	Allowable with restrictions - (5)	Not Addressed
Compensation for Personal Services	Unique criteria for support - (11)	Unique criteria for support - (8)	Unique criteria for support - (7)
Defense & Prosecution of Criminal & Civil Proceedings	Allowable with restrictions - (14)	Allowable with restrictions - (11)	Allowable with restrictions - (10)
Goods or Services for Personal Use	Not Addressed	Unallowable - (19)	Unallowable - (18)

Selected Cost Items Not Treated the Same Among the Circulars			Exhibit 1
Selected Cost Items	A-87 - State, Local & Indian Tribal Governments	A-21 - Educational Institutions	A-122 - Non-Profit Organizations
Housing & Personal Living Expenses	Not Addressed	Unallowable - (20)	Unallowable as overhead costs - (19)
Idle Facilities	Allowable with restrictions - (24)	Not Addressed	Allowable with restrictions - (20)
Interest, Fund Raising & Investment	Allowable with restrictions - (21, 26)	Allowable with restrictions - (22)	Allowable with restrictions - (23)
Lobbying	Unallowable (certain exceptions at State/local level) - (27)	Unallowable - (17, 24)	Unallowable - (21)
Memberships, Subscriptions, & Professional Activities	Allowable for civic, community & social organizations with Federal approval - (30)	Unallowable for civic, community & social organizations - (28)	Unallowable for civic, community & social organizations - (30)
Organizational Costs	Not Addressed	Not Addressed	Allowable with prior approval - (31)
Patents	Not Addressed	Allowable with restrictions - (29)	Allowable with restrictions - (35)
Professional Services Costs	Allowable with restrictions - (33)	Allowable with restrictions - (32)	Allowable with restrictions - (39)
Proposal Costs	Allowable with restrictions - (34)	Allowable with restrictions - (34)	Not Addressed
Publication & Printing	Allowable (35)	Not Addressed	Allowable with restrictions - (41)
Recruiting Costs	Allowable with restrictions - (2)	Allowable with restrictions - (37.b)	Allowable with restrictions - (44)

Selected Cost Items Not Treated the Same Among the Circulars			Exhibit 1
Selected Cost Items	A-87 - State, Local & Indian Tribal Governments	A-21 - Educational Institutions	A-122 - Non-Profit Organizations
Relocation Costs	Not Addressed	Allowable with restrictions - (37.b)	Allowable with restrictions - (45)
Royalties	Not Addressed	Allowable with restrictions - (39)	Allowable with restrictions - (47)
Selling & Marketing	Not Addressed	Unallowable - (42)	Unallowable - (48)
Specialized Services Facilities	Not Addressed	Allowable with restrictions - (44)	Allowable with restrictions - (50)
Substantial Relocation - Interest Provision	Possible adjustment if relocated within useful life - (26)	Possible adjustment if relocated within 20 years - (22)	Possible adjustment if relocated within 20 years - (23)
Taxes	Allowable with restrictions - (39)	Allowable with restrictions - (46)	Allowable with restrictions - (51)
Termination Costs	Not Addressed	Allowable with restrictions - (49)	Allowable with restrictions - (52)
Training	Allowable for employee development - (40)	Allowable - (8.f)	Allowable with limitations - (53)
Travel	Allowable with restrictions - (41)	Allowable with restrictions - (48, 50)	Allowable with restrictions - (55)
Trustees (travel expense)	Not addressed	Unallowable - (50)	Allowable with restrictions - (56)

Selected Unallowable Cost Items			Exhibit 2
Selected Cost Items	A-87 - State, Local & Indian Tribal Governments	A-21 - Educational Institutions	A-122 - Non-Profit Organizations
Advertising & Public Relations	Allowable with restrictions - (2)	Allowable with restrictions - (1)	Allowable with restrictions - (1)
Alcoholic Beverages	(4)	(2)	Unallowable - (2)
Alumni Activities	Not Applicable	(3)	Not Applicable
Audit Services	Allowable with restrictions - (5) and as addressed in OMB Circular A-133	Allowable with restrictions as addressed in OMB Circular A-133	Allowable with restrictions as addressed in OMB Circular A-133
Civil Defense (local)	Not Addressed	Allowable with restrictions - (5)	Not Addressed
Commencement & Convocations	Not Applicable	(6)	Not Applicable
Compensation - Institution Automobile	Not Addressed	(8.g)	Unallowable as overhead costs - (7g)
Contingencies	(12)	(9)	(8)
Defense & Prosecution of Criminal & Civil Proceedings	Allowable with restrictions - (14)	Allowable with restrictions - (11)	Allowable with restrictions - (10)
Donations & Contributions	(13)	(13)	(9, 12)
Entertainment	(18)	(15)	(14)
Fines and Penalties	Allowable with restrictions - (20)	Allowable with restrictions - (18)	Allowable with restrictions - (16)
General Government Expenses	(23)	Not Applicable	Not Applicable

Selected Unallowable Cost Items			Exhibit 2
Selected Cost Items	A-87 - State, Local & Indian Tribal Governments	A-21 - Educational Institutions	A-122 - Non-Profit Organizations
Goods or Services for Personal Use	Not Addressed	Unallowable - (19)	Unallowable - (18)
Housing & Personal Living Expenses	Not Addressed	(20)	Unallowable as overhead costs - (19)
Idle Facilities	Allowable with restrictions - (24)	Not Addressed	Allowable with restrictions - (20)
Insurance & Indemnification	Allowable with restrictions - (25)	Allowable with restrictions - (21)	Allowable with restrictions - (22)
Interest, Fund Raising & Investment	Allowable with restrictions - (21, 26)	Allowable with restrictions - (22)	Allowable with restrictions - (23)
Lobbying	Unallowable except at State/local level - (27)	(17, 24)	(25)
Losses on Other Sponsored Programs	(42)	(25)	(26)
Memberships, Subscriptions & Professional Activities	Allowable with restrictions - (30)	Allowable with restrictions - (28)	Allowable with restrictions - (30)
Organizational Costs	Not Addressed	Not Addressed	Allowable with prior approval - (31)
Patents	Not Addressed	Allowable with restrictions - (29)	Allowable with restrictions - (35)
Pre-Agreement Costs	Allowable with restrictions - (32)	Allowable with restrictions - (31)	Allowable with restrictions - (38)

Selected Unallowable Cost Items			Exhibit 2
Selected Cost Items	A-87 - State, Local & Indian Tribal Governments	A-21 - Educational Institutions	A-122 - Non-Profit Organizations
Publication & Printing	Allowable (35)	Not Addressed	Allowable with restrictions - (41)
Recruiting Costs	Allowable with restrictions - (2)	Allowable with restrictions - (37.b)	Allowable with restrictions - (44)
Relocation Costs	Not Addressed	Allowable with restrictions - (37.b)	Allowable with restrictions - (45)
Selling & Marketing	Not Addressed	(42)	Unallowable as overhead costs - (48)
Severance Pay	Allowable with restrictions - (11.g)	Allowable with restrictions - (43)	Allowable with restrictions - (49)
Student Activity Costs	Not Applicable	(45)	Not Applicable
Taxes	Allowable with restrictions - (39)	Allowable with restrictions- (46)	Allowable with restrictions (51)
Termination Costs	Not Addressed	Allowable with restrictions - (49)	Allowable with restrictions - (52)
Travel - First Class	(41)	(48)	(55)
Trustees (travel expense)	Not Applicable	(50)	Allowable with restrictions - (56)
Under recovery of Costs on Federal Agreements	(42)	(25)	(26)

C. CASH MANAGEMENT

Compliance Requirements

When entities are funded on a reimbursement basis, program costs must be paid for by entity funds before reimbursement is requested from the Federal Government. When funds are advanced, recipients must follow procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement. When advance payment procedures are used, recipients must establish similar procedures for subrecipients.

Pass-through entities must establish reasonable procedures to ensure receipt of reports on subrecipients' cash balances and cash disbursements in sufficient time to enable the pass-through entities to submit complete and accurate cash transactions reports to the Federal awarding agency or pass-through entity. Pass-through entities must monitor cash drawdowns by their subrecipients to assure that subrecipients conform substantially to the same standards of timing and amount as apply to the pass-through entity.

Interest earned on advances by local government grantees and subgrantees is required to be submitted promptly, but at least quarterly, to the Federal agency. Up to \$100 per year may be kept for administrative expenses. Interest earned by non-State nonprofit entities on Federal fund balances in excess of \$250 is required to be remitted to Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852.

Treasury regulations at 31 CFR part 205, which implement the Cash Management Improvement Act of 1990 (CMIA) (Pub. L. No. 101-453; 31 USC 6501 *et seq.*), require State recipients to enter into agreements which prescribe specific methods of drawing down Federal funds (funding techniques) for selected large programs. The agreements also specify the terms and conditions in which an interest liability would be incurred. Programs not covered by a Treasury-State Agreement are subject to procedures prescribed by Treasury in Subpart B of 31 CFR part 205 (Subpart B).

The requirements for cash management are contained in the OMB Circular 102 (Paragraph 2.a.), the A-102 Common Rule (§___.21), OMB Circular A-110 (§___.22), Treasury regulations at 31 CFR part 205, Federal awarding agency regulations, and the terms and conditions of the award.

Availability of Other Information

The U.S. Treasury, Financial Management Service maintains a Cash Management Improvement Act page on the Internet (<http://www.fms.treas.gov/cmia/>).

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 §___.500(c).

2. Determine whether the recipient/subrecipient followed procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury, or pass-through entity, and their disbursement.
3. Determine whether States have complied with the terms and conditions of the Treasury-State Agreement or Subpart B procedures prescribed by Treasury.
4. Determine whether the pass-through entity implemented procedures to assure that subrecipients conformed substantially to the same timing requirements that apply to the pass-through entity.
5. Determine whether interest earned on advances was reported/remitted as required.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for cash management and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in §___.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

Note: The following procedures are intended to be applied to each program determined to be major. However, due to the nature of cash management and the system of cash management in place in a particular entity, it may be appropriate and more efficient to perform these procedures for all programs collectively rather than separately for each program.

States

1. For programs tested as major for States, verify which of those programs are covered by the Treasury-State Agreement in accordance with the materiality thresholds in Appendix A to subpart A of 31 CFR part 205 (31 CFR section 205.4).
2. For those programs identified in procedure 1, determine the funding techniques used for those programs. For those funding techniques that require clearance patterns to schedule the transfer of funds to the State, review documentation supporting the clearance pattern and verify that the clearance pattern conforms to the requirements for developing and

maintaining clearance patterns as specified in the Treasury-State Agreement (31 CFR sections 205.8 and 205.9(b)(4)).

3. Select a sample of Federal cash draws and verify that:
 - a. The timing of the Federal cash draws were in compliance with the applicable funding techniques specified in the Treasury-State Agreement or Subpart B procedures, whichever is applicable (31 CFR sections 205.7 and 205.20).
 - b. To the extent available, program income, rebates, refunds, and other income and receipts were disbursed before requesting additional Federal cash draws as required by the A-102 Common Rule (§ ____.21) and OMB Circular A-110 (§ ____.22).
4. Where applicable, select a sample of reimbursement requests and trace to supporting documentation showing that the costs for which reimbursement was requested were paid prior to the date of the reimbursement request (31 CFR section 205.7(c)(5)).
5. Review the calculation of the interest obligation owed to or by the Federal Government, reported on the annual report submitted by the State to ascertain that the calculation was in accordance with Treasury regulations and the terms of the Treasury-State Agreement or Subpart B procedures. Trace amounts used in the calculation to supporting documentation.

States and Other Recipients

6. For those programs where Federal cash draws are passed through to subrecipients:
 - a. Select a representative sample of subrecipients and ascertain the procedures implemented to assure that subrecipients minimize the time elapsing between the transfer of Federal funds from the recipient and the pay out of funds for program purposes (A-102 Common Rule § ____.37(a)(4)).
 - b. Select a representative sample of Federal cash draws by subrecipients and ascertain that they conformed to the procedures.

Other Recipients and Subrecipients

7. For those programs which received advances of Federal funds, ascertain the procedures established with the Federal agency or pass-through entity to minimize the time between the transfer of Federal funds and the pay out of funds for program purposes.
8. Select a sample of Federal cash draws and verify that:
 - a. Established procedures to minimize the time elapsing between drawdown and disbursement were followed.

- b. To the extent available, program income, rebates, refunds, and other income and receipts were disbursed before requesting additional cash payments as required by the A-102 Common Rule (§__.21) and OMB Circular A-110 (§__.22).
- 9. Where applicable, select a sample of reimbursement requests and trace to supporting documentation showing that the costs for which reimbursement was requested were paid prior to the date of the reimbursement request.
- 10. Review records to determine if interest was earned on Federal cash draws. If so, review evidence to ascertain whether it was returned to the appropriate agency.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

D. DAVIS-BACON ACT

Compliance Requirements

When required by the Davis-Bacon Act, the Department of Labor's (DOL) governmentwide implementation of the Davis-Bacon Act, or by Federal program legislation, all laborers and mechanics employed by contractors or subcontractors to work on construction contracts in excess of \$2000 financed by Federal assistance funds must be paid wages not less than those established for the locality of the project (prevailing wage rates) by the DOL (40 USC 276a to 276a-7).

Non-federal entities shall include in their construction contracts subject to Davis-Bacon Act a requirement that the contractor or subcontractor comply with the requirements of the Davis-Bacon Act and the DOL regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). This includes a requirement for the contractor or subcontractor to submit to the non-Federal entity weekly, for each week in which any contract work is performed, a copy of the payroll and a statement of compliance (certified payrolls) (29 CFR sections 5.5 and 5.6). This reporting is often done using Optional Form WH-347 which includes the required statement of compliance (OMB No. 1215-0149).

The requirements for Davis-Bacon are also contained in the A-102 Common Rule (§___.36(i)(5) and OMB Circular A-110 (Appendix A Contract Provisions).

Availability of Other Information

The U.S. Department of Labor, Employment Standards Administration, maintains a Davis-Bacon and Related Acts Internet page (www.dol.gov/dol/esa/public/programs/dbra/index.html). Optional Form WH-347 and instructions are available on this Internet page.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 §___.500(c).
2. Determine whether the non-Federal entity notified contractors and subcontractors of the requirements to comply with the Davis-Bacon Act and obtained copies of certified payrolls.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for Davis-Bacon Act and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the

alternative procedures in § ____.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.

3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

1. Select a sample of construction contracts and subcontracts greater than \$2000 which are covered by the Davis-Bacon Act and perform the following procedures:
 - a. Verify that the required prevailing wage rate clauses were included.
 - b. Verify that the contractor or subcontractor submitted weekly the required certified payrolls.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

E. ELIGIBILITY

Compliance Requirements

The specific requirements for eligibility are unique to each Federal program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining to the program. For programs listed in the Compliance Supplement, these specific requirements are in Part 4 - Agency Program Requirements or Part 5 - Clusters of Programs, as applicable. This compliance requirement specifies the criteria for determining the individuals, groups of individuals, or subrecipients that can participate in the program and the amounts for which they qualify.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 §___.500(c).
2. Determine whether required eligibility determinations were made, (including obtaining any required documentation/verifications) and that individual program participants or groups of participants (including area of service delivery) were determined to be eligible. Only eligible individuals or groups of individuals (including area of service delivery) participated in the program.
3. Determine whether subawards were made only to eligible subrecipients.
4. Determine whether amounts provided to or on behalf of eligibles were calculated in accordance with program requirements.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for eligibility and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in §___.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

1. *Eligibility for Individuals*

a. For some Federal programs with a large number of people receiving benefits, the non-Federal entity may use a computer system for processing individual eligibility determinations and delivery of benefits. Often these computer systems are complex and will be separate from the non-Federal entity's regular financial accounting system. Typical functions a computer system for eligibility may perform are:

- Perform calculations to assist in determining who is eligible and the amount of benefits
- Pay benefits (e.g., write checks)
- Maintain eligibility records, including information about each individual and benefits paid to or on behalf of the individual (regular payments, refunds, and adjustments)
- Track the period of time an individual is eligible and stop benefits at the end of a predetermined period unless, there is a redetermination of eligibility
- Perform matches with other computer data bases to verify eligibility (e.g., matches to verify earnings or identify individuals who are deceased)
- Control who is authorized to approve benefits for eligibles (e.g., an employee may be approving benefits on-line and this process may be controlled by passwords or other access controls)
- Produce exception reports indicating likely errors which need follow-up (e.g., when benefits exceed a certain amount, would not be appropriate for a particular classification of individuals, or are paid more frequently than normal)

Because of the diversity of computer systems, both hardware and software, it is not practical for the Compliance Supplement to provide suggested audit procedures to address each system. However, generally accepted auditing standards provide guidance for the auditor when computer processing relates to accounting information that can materially effect the financial statements being audited. Similarly, when eligibility is material to a major program, and a computer system is integral to eligibility compliance, the auditor should follow this guidance and consider the non-Federal entity's computer processing. The auditor should perform audit procedures relative to the computer system for eligibility as necessary to support the opinion on compliance for the major program. Due to the nature and controls of computer systems, the auditor may choose to perform these tests of the computer systems as part of testing the internal controls for eligibility.

b. Perform procedures to ascertain if the non-Federal entity's records/database includes all individuals receiving benefits during the audit period (e.g., that the population of individuals receiving benefits is complete).

- c. Select a sample of individuals receiving benefits and perform tests to ascertain if the:
 - (1) Non-Federal entity performed the required eligibility determination, (including obtaining any required documentation/verifications) and the individual was determined to be eligible. Specific individuals were eligible in accordance with the compliance requirements of the program. (Note that some programs have both initial and continuing eligibility requirements and the auditor should design and perform appropriate tests for both.)
 - (2) Benefits paid to or on behalf of the individuals were calculated correctly and in compliance with the requirements of the program.
 - (3) Benefits were discontinued when the period of eligibility expired.
- d. In some programs, the non-Federal entity is required to use a quality control process to obtain assurances about eligibility. Review the quality control process and perform tests to ascertain if it is operating to effectively meet the objectives of the process and in compliance with applicable program requirements.

2. *Eligibility for Group of Individuals or Area of Service Delivery*

- a. In some cases, the non-Federal entity may be required to perform procedures to determine whether a population or area of service delivery is eligible. Test information used in determining eligibility and ascertain if the population or area of service delivery was eligible.
- b. Perform tests to ascertain if :
 - (1) The population or area served was eligible.
 - (2) The benefits paid to or on behalf of the individuals or area of service delivery were calculated correctly.

3. *Eligibility for Subrecipients*

- a. If the determination of eligibility is based upon an approved application or plan, obtain a copy of this document and identify the applicable eligibility requirements.
- b. Select a sample of the awards to subrecipients and perform procedures to verify that the subrecipients were eligible and amounts awarded were within funding limits.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

F. EQUIPMENT AND REAL PROPERTY MANAGEMENT

Compliance Requirements

Equipment Management

Title to equipment acquired by a non-Federal entity with Federal awards vests with the non-Federal entity. Equipment means tangible nonexpendable property, including exempt property, charged directly to the award having a useful life of more than one year and an acquisition cost of \$5000 or more per unit. However, consistent with a non-Federal entity's policy, lower limits may be established.

A State shall use, manage, and dispose of equipment acquired under a Federal grant in accordance with State laws and procedures. Subrecipients of States who are local governments or Indian tribes shall use State laws and procedures for equipment acquired under a subgrant from a State.

Local governments and Indian tribes shall follow the A-102 Common Rule for equipment acquired under Federal awards received directly from a Federal awarding agency. Institutions of higher education, hospitals, and other non-profit organizations shall follow the provisions of OMB Circular A-110. Basically the A-102 Common Rule and OMB Circular A-110 require that equipment be used in the program which acquired it or, when appropriate, other Federal programs. Equipment records shall be maintained, a physical inventory of equipment shall be taken at least once every two years and reconciled to the equipment records, an appropriate control system shall be used to safeguard equipment, and equipment shall be adequately maintained. When equipment with a current per unit fair market value in excess of \$5000, is no longer needed for a Federal program, it may be retained or sold with the Federal agency having a right to a proportionate (percent of Federal participation in the cost of the original project) amount of the current fair market value. Proper sales procedures shall be used that provide for competition to the extent practicable and result in the highest possible return.

The requirements for equipment are contained in the A-102 Common Rule (§___.32), OMB Circular A-110 (§___.34), Federal awarding agency program regulations, and the terms and conditions of the award.

Real Property Management

Title to real property acquired by non-Federal entities with Federal awards vests with the non-Federal entity. Real property shall be used for the originally authorized purpose as long as needed for that purpose. For non-Federal entities covered by OMB Circular A-110 and with written approval from the Federal awarding agency, the real property may be used in other Federally-sponsored projects or programs that have purposes consistent with those authorized for support by the Federal awarding agency. The non-Federal entity may not dispose of or encumber the title to real property without the prior consent of the awarding agency.

When real property is no longer needed for the Federally-supported programs or projects, the non-Federal entity shall request disposition instructions from the awarding agency. (For

purposes of this compliance requirement, the awarding agency for recipients under OMB Circular A-110 or the A-102 Common Rule and subrecipients under OMB Circular A-110 is the Federal agency providing the funding. The awarding agency for subrecipients under the A-102 Common Rule is the pass-through entity.) When real property is sold, sales procedures should provide for competition to the extent practicable and result in the highest possible return. If sold, non-Federal entities are normally required to remit to the awarding agency the Federal portion (based on the Federal participation in the project) of net sales proceeds. If retained, the non-Federal entity shall normally compensate the awarding agency for the Federal portion of the current fair market value of the property. Disposition instructions may also provide for transfer of title in which case, the non-Federal entity is entitled to compensation for its percentage share of the current fair market value.

The requirements for real property are contained in the A-102 Common Rule (§ ____.31), OMB Circular A-110 (§ ____.32), Federal awarding agency regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 § ____.500(c).
2. Determine whether the non-Federal entity maintains proper records for equipment and adequately safeguards and maintains equipment.
3. Determine whether disposition or encumbrance of any equipment or real property acquired under Federal awards is in accordance with Federal requirements and that the awarding agency was compensated for its share of any property sold or converted to non-Federal use.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for equipment and real property management and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in § ____.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

(Procedure 1 only applies to subrecipients of States that are local governments or Indian tribal governments. Procedure 2 only applies to States and to subrecipients of States that are local governments or Indian tribal governments.)

1. Obtain entity's policies and procedures for equipment management and ascertain if they comply with the State's policies and procedures.
2. Select a sample of equipment transactions and test for compliance with the State's policies and procedures for management and disposition of equipment.

(Procedures 3-4 only apply to institutions of higher education, hospitals, and other non-profit organizations; and Federal awards received directly from a Federal awarding agency by a local government or an Indian tribal government.)

3. *Inventory Management of Equipment*
 - a. Inquire if a required physical inventory of equipment acquired under Federal awards was taken within the last two years. Test whether any differences between the physical inventory and equipment records were resolved.
 - b. Identify equipment acquired under Federal awards during the audit period and trace selected purchases to the property records. Verify that the property records contain the following information about the equipment: description (including serial number or other identification number), source, who holds title, acquisition date and cost, percentage of Federal participation in the cost, location, condition, and any ultimate disposition data including, the date of disposal and sales price or method used to determine current fair market value.
 - c. Select a sample of equipment identified as acquired under Federal awards from the property records and physically inspect the equipment including whether the equipment is appropriately safeguarded and maintained.
4. *Dispositions of Equipment*
 - a. Determine the amount of equipment dispositions for the audit period and perform procedures to verify that dispositions were properly classified between equipment acquired under Federal awards and equipment otherwise acquired.
 - b. For dispositions of equipment acquired under Federal awards, perform procedures to verify that the dispositions were properly reflected in the property records.
 - c. For dispositions of equipment acquired under Federal awards with a current per-unit fair market value in excess of \$5000, test whether the awarding agency was reimbursed for the appropriate Federal share.

(Procedure 5 applies to States, local governments, Indian tribal governments and non-profit organizations regardless of whether funding is received as a recipient or subrecipient.)

5. *Dispositions of Real Property*

- a. Determine real property dispositions for the audit period and ascertain such real property acquired with Federal awards.
- b. For dispositions of real property acquired under Federal awards, perform procedures to verify that the non-Federal entity followed the instructions of the awarding agency which will normally require reimbursement to the awarding agency for the Federal portion of net sales or fair market value at the time of disposition, as applicable.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

G. MATCHING, LEVEL OF EFFORT, EARMARKING

Compliance Requirements

The specific requirements for matching, level of effort, and earmarking are unique to each Federal program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining to the program. For programs listed in the Compliance Supplement, these specific requirements are in Part 4 - Agency Program Requirements or Part 5 - Clusters of Programs, as applicable.

However, for matching, the A-102 Common Rule (§____.24) and OMB Circular A-110 (§____.23) provide detailed criteria for acceptable costs and contributions. The following is a list of the basic criteria for acceptable matching:

- Are verifiable from the non-Federal entity's records.
- Are not included as contributions for any other Federally-assisted project or program, unless specifically allowed by Federal program laws and regulations.
- Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.
- Are allowed under the applicable cost principles.
- Are not paid by the Federal Government under another award, except where authorized by Federal statute to be allowable for cost sharing or matching.
- Are provided for in the approved budget when required by the Federal awarding agency.
- Conform to other applicable provisions of the A-102 Common Rule and OMB Circular A-110 and the laws, regulations, and provisions of contract or grant agreements applicable to the program.

Matching, level of effort and earmarking are defined as follows:

- (1) *Matching* or cost sharing includes requirements to provide contributions (usually non-Federal) of a specified amount or percentage to match Federal awards. Matching may be in the form of allowable costs incurred or in-kind contributions (including third-party in-kind contributions).
- (2) *Level of effort* includes requirements for (a) a specified level of service to be provided from period to period, (b) a specified level of expenditures from non-Federal or Federal sources for specified activities to be maintained from period to period, and (c) Federal funds to supplement and not supplant non-Federal funding of services.
- (3) *Earmarking* includes requirements that specify the minimum and/or maximum amount or percentage of the program's funding that must/may be used for specified activities, including funds provided to subrecipients. Earmarking may also be specified in relation to the types of participants covered.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 §___.500(c).
2. *Matching* - Determine whether the minimum amount or percentage of contributions or matching funds was provided.
3. *Level of Effort* - Determine whether specified service or expenditure levels were maintained.
4. *Earmarking* - Determine whether minimum or maximum limits for specified purposes or types of participants were met.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for matching, level of effort, earmarking and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in §___.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

1. **Matching**
 - a. Perform tests to verify that the required matching contributions were met.
 - b. Ascertain the sources of matching contributions and perform tests to verify that they were from an allowable source.
 - c. Test records to corroborate that the values placed on in-kind contributions (including third party in-kind contributions) are in accordance with the OMB cost principles circulars, the A-102 Common Rule, OMB Circular A-110, program regulations, and the terms of the award.

- d. Test transactions used to match for compliance with the allowable costs/cost principles requirement. This test may be performed in conjunction with the testing of the requirements related to allowable costs/cost principles.

2.1 **Level of Effort - *Maintenance of Effort***

- a. Identify the required level of effort and perform tests to verify that the level of effort requirement was met.
- b. Perform test to verify that only allowable categories of expenditures or other effort indicators (e.g., hours, number of people served) were included in the computation and that the categories were consistent from year to year. For example, in some programs, capital expenditures may not be included in the computation.
- c. Perform procedures to verify that the amounts used in the computation were derived from the books and records from which the audited financial statements were prepared.
- d. Perform procedures to verify that non-monetary effort indicators were supported by official records.

2.2 **Level of Effort - *Supplement Not Supplant***

- a. Ascertain if the entity used Federal funds to provide services which they were required to make available under Federal, State, or local law and were also made available by funds subject to a supplement not supplant requirement.
- b. Ascertain if the entity used Federal funds to provide services which were provided with non-Federal funds in the prior year.
 - (1) Identify the Federally-funded services.
 - (2) Perform procedures to determine whether the Federal program funded services that were previously provided with non-Federal funds.
 - (3) Perform procedures to ascertain if the total level of services applicable to the requirement increased in proportion to the level of Federal contribution.

3. **Earmarking**

- a. Identify the applicable percentage or dollar requirements for earmarking.
- b. Perform procedures to verify that the amounts recorded in the financial records met the requirements (e.g., when a minimum amount is required to be spent for a specified type of service, perform procedures to verify that the financial records

show that at least the minimum amount for this type of service was charged to the program; or, when the amount spent on a specified type of service may not exceed a maximum amount, perform procedures to verify that the financial records show no more than this maximum amount for the specified type of service was charged to the program).

- c. When earmarking requirements specify a minimum percentage or amount, select a sample of transactions supporting the specified amount or percentage and perform tests to verify proper classification to meet the minimum percentage or amount.
- d. When the earmarking requirements specify a maximum percentage or amount, review the financial records to identify transactions for the specified activity which were improperly classified in another account (e.g., if only 10 percent may be spent for administrative costs, review accounts for other than administrative costs to identify administrative costs which were improperly classified elsewhere and cause the maximum percentage or amount to be exceeded).
- e. When earmarking requirements prescribe the minimum number or percentage of specified types of participants that can be served, select a sample of participants that are counted toward meeting the minimum requirement and perform tests to verify that they were properly classified.
- f. When earmarking requirements prescribe the maximum number or percentage of specified types of participants that can be served, select a sample of other participants and perform tests to verify that they were not of the specified type.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

H. PERIOD OF AVAILABILITY OF FEDERAL FUNDS

Compliance Requirements

Federal awards may specify a time period during which the non-Federal entity may use the Federal funds. Where a funding period is specified, a non-Federal entity may charge to the award only costs resulting from obligations incurred during the funding period and any pre-award costs authorized by the Federal awarding agency. Also, if authorized by the Federal program, unobligated balances may be carried over and charged for obligations of the subsequent funding period. Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the non-Federal entity during the same or a future period (A-102 Common Rule, § ____.23; OMB Circular A-110, § ____.28).

Non-Federal entities subject to the A-102 Common Rule shall liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status report (SF-269). The Federal agency may extend this deadline upon request (A-102 Common Rule, § ____.23).

An example used by a program to determine when an obligation occurs (is made) is found under Part 4, Department of Education, CFDA 84.000 (Cross-Cutting Section).

Audit Objective

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 § ____.500(c).
2. Determine whether Federal funds were obligated within the period of availability and obligations were liquidated within the required time period.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for period of availability of Federal funds and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in § ____.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

1. Review the award documents and regulations pertaining to the program and determine any award-specific requirements related to the period of availability and document the availability period.
2. Test a sample of transactions charged to the Federal award after the end of the period of availability and verify that the underlying obligations occurred within the period of availability and that the liquidation (payment) was made within the allowed time period.
3. Test a sample of transactions that were recorded during the period of availability and verify that the underlying obligations occurred within the period of availability.
4. Select a sample of adjustments to the Federal funds and verify that these adjustments were for transactions that occurred during the period of availability.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

I. PROCUREMENT AND SUSPENSION AND DEBARMENT

Compliance Requirements

Procurement

States, and governmental subrecipients of States, shall use the same State policies and procedures used for procurements from non-Federal funds. They also shall ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations.

Local governments and Indian tribal governments which are not subrecipients of States will use their own procurement procedures provided that they conform to applicable Federal law and regulations and standards identified in the A-102 Common Rule.

Institutions of higher education, hospitals, and other non-profit organizations shall use procurement procedures that conform to applicable Federal law and regulations and standards identified in OMB Circular A-110. All non-Federal entities shall follow Federal laws and implementing regulations applicable to procurements, as noted in Federal agency implementation of the A-102 Common Rule and OMB Circular A-110.

Requirements for procurement are contained in the A-102 Common Rule (§____.36), OMB Circular A-110 (§____.40 through §____.48), Federal awarding agency regulations, and the terms of the award. The specific references for the A-102 Common Rule and OMB Circular A-110, respectively are given for each procedure. (The first number listed refers to the A-102 Common Rule and the second refers to A-110.)

Suspension and Debarment

Non-Federal entities are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$100,000 and all nonprocurement transactions (e.g., subawards to subrecipients).

Contractors receiving individual awards for \$100,000 or more and all subrecipients must certify that the organization and its principals are not suspended or debarred. The non-Federal entities may rely upon the certification unless it knows that the certification is erroneous. Non-Federal entities may, but are not required to, check for suspended and debarred parties which are listed in the *List of Parties Excluded From Federal Procurement or Nonprocurement Programs*, issued by the General Services Administration (GSA). The information contained on the list is available in printed and electronic formats. The printed version is published monthly. Copies may be obtained by purchasing a yearly subscription from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by calling the Government Printing Office Inquiry and Order Desk at (202) 783-3238. The electronic version can be accessed on the Internet (<http://www.arnet.gov/epl>). Please note that the user will be required to record their name and organization for purposes of the Computer Matching and Privacy Act of 1988.

Requirements for suspension and debarment are contained in the Federal agencies' codification of the governmentwide debarment and suspension common rule (see Appendix II for CFR cites) which implements Executive Orders 12549 and 12689, Debarment and Suspension, and the terms of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 §___.500(c).
2. Determine whether procurements were made in compliance with the provisions of the A-102 Common Rule, OMB Circular A-110, and other procurement requirements specific to an award.
3. Determine whether the non-Federal entity obtained the required certifications for covered contracts and subawards.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for procurement and suspension and debarment and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in §___.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

(Procedures 1 - 4 apply only to institutions of higher education, hospitals, and other non-profit organizations; and Federal awards received directly from a Federal awarding agency by a local government or an Indian tribal government.)

1. Obtain entity's procurement policies. Verify that the policies comply with applicable Federal requirements (§___.36(b)(1) and §___.43).
2. Ascertain if the entity has a policy to use statutorily or administratively-imposed in-State or local geographical preferences in the evaluation of bids or proposals. If yes, verify that these limitations were not applied to Federal procurements except where applicable

Federal statutes expressly mandate or encourage geographic preference (§____.36(c)(2) and §____.43).

3. Examine procurement policies and procedures and verify the following:
 - a. Written selection procedures require that solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured, identify all requirements that the offerors must fulfill, and include all other factors to be used in evaluating bids or proposals (§____.36(c)(3) and §____.44(a)(3)).
 - b. There is a written policy pertaining to ethical conduct (§____.36(b)(3) and §____.42).
4. Select a sample of procurements and perform the following:
 - a. Examine contract files and verify that they document the significant history of the procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis of contract price (§____.36(b)(9) and §____.46).
 - b. Verify that procurements provide full and open competition (§____.36(c)(1) and §____.43).
 - c. Examine documentation in support of the rationale to limit competition in those cases where competition was limited and ascertain if the limitation was justified (§____.36(b)(1) and (d)(4); and §____.43 and §____.44(e)).
 - d. Verify that contract files exist and ascertain if appropriate cost or price analysis was performed in connection with procurement actions, including contract modifications and that this analysis supported the procurement action (§____.36(f) and §____.45).
 - e. Verify that the awarding Federal agency approved procurements exceeding \$100,000 when such approval was required. Procurements (1) awarded by noncompetitive negotiation, (2) awarded when only a single bid or offer was received, (3) awarded to other than the apparent low bidder, or (4) specifying a "brand name" product (§____.36(g)(1) and §____.44(e)), may require prior Federal awarding agency approval.
 - f. Verify compliance with other procurement requirements specific to an award.

(Procedure 5 only applies to States and Federal awards subgranted by the State to a local government or Indian tribal government.)

5. Test a sample of procurements to ascertain if the State's laws and procedures were followed and that the policies and procedures used were the same as for non-Federal funds.

(Procedure 6 applies to all non-Federal entities)

6. Test a sample of procurements and subawards and ascertain if the required suspension and debarment certifications were received for subawards and covered contracts. Alternatively, the auditor may test a sample of procurements and subawards to *the List of Parties Excluded From Federal Procurement or Nonprocurement Programs*, issued by the GSA and ascertain if contracts were awarded to suspended or debarred parties.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

J. PROGRAM INCOME

Compliance Requirements

Program income is gross income received that is directly generated by the Federally-funded project during the grant period. If authorized by Federal regulations or the grant agreement, costs incident to the generation of program income may be deducted from gross income to determine program income. Program income includes, but is not limited to, income from: fees for services performed, the use or rental of real or personal property acquired with grant funds, the sale of commodities or items fabricated under a grant agreement, and payments of principal and interest on loans made with grant funds. Except as otherwise provided in the Federal awarding agency regulations or terms and conditions of the award, program income does not include interest on grant funds (covered under Cash Management), rebates, credits, discounts, refunds, etc. (covered under Allowable Costs/Cost Principles), or interest earned on any of them (covered under Cash Management). Program income does not include the proceeds from the sale of equipment or real property (covered under Equipment and Real Property Management).

Program income may be used in one of three methods: deducted from outlays, added to the project budget, or used to meet matching requirements. Unless specified in the Federal awarding agency regulations or the terms and conditions of the award, program income shall be deducted from program outlays. However, for research and development activities by institutions of higher education, hospitals, and other non-profit organizations, the default method is to add program income to the project budget. Unless Federal awarding agency regulations or the terms and conditions of the award specify otherwise, non-Federal entities have no obligation to the Federal Government regarding program income earned after the end of the grant period.

The requirements for program income are found in the A-102 Common Rule (§ _____.21(payment) and § _____.25), OMB Circular A-110 (§ _____.2 (program income definition), § _____.22(payment), and § _____.24), Federal awarding agency laws, program regulations, and the provisions of the contract or grant agreements pertaining to the program.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 § _____.500(c).
2. Determine whether program income is correctly determined, recorded, and used in accordance with the program requirements, A-102 Common Rule, and OMB Circular A-110, as applicable.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.

2. Plan the testing of internal control to support a low assessed level of control risk for program income and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in §___.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

1. *Identify Program Income*
 - a. Review the laws, regulations, and the provisions of contract or grant agreements applicable to the program and ascertain if program income was anticipated. If so, ascertain the requirements for determining or assessing the amount of program income (e.g., a scale for determining user fees, prohibition of assessing fees against certain groups of individuals, etc.), and the requirements for recording and using program income.
 - b. Inquire of management and review accounting records to ascertain if program income was received.
2. *Determining or Assessing Program Income* - Perform tests to verify that program income was properly determined or calculated in accordance with stated criteria, and that program income was only collected from allowable sources.
3. *Recording of Program Income* - Perform tests to verify that all program income was properly recorded in the accounting records.
4. *Use of Program Income* - Perform tests to ascertain if program income was used in accordance with the program requirements, the A-102 Common Rule, and OMB Circular A-110.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

K. REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE

Compliance Requirements

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA) provides for uniform and equitable treatment of persons displaced by Federally-assisted programs from their homes, businesses, or farms. Property acquired must be appraised by qualified independent appraisers. All appraisals must be examined by a review appraiser to assure acceptability. After acceptance, the review appraiser certifies the recommended or approved value of the property for establishment of the offer of just compensation to the owner. Federal requirements govern the determination of payments for replacement housing assistance, rental assistance, and down payment assistance for individuals displaced by Federally-funded projects. The regulations also cover the payment of moving-related expenses and reestablishment expenses incurred by displaced businesses and farm operations.

Governmentwide requirements for real property acquisition and relocation assistance are contained in Department of Transportation's single governmentwide rule at 49 CFR part 24, Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally-Assisted Programs.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 §___.500(c).
2. Determine whether the non-Federal entity complied with the real property acquisition, appraisal, negotiation, and relocation requirements.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for real property acquisition and relocation assistance and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in §___.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

1. Inquire of management and review the records of Federal programs to ascertain if the non-Federal entity administers Federally-assisted programs that involve the acquisition of real property or the displacement of households or businesses.

2. *Property Acquisitions*

For a sample of acquisitions:

- a. *Appraisal* - Test records to ascertain if: (1) the just compensation amount offered the property owner was determined by an appraisal process; (2) the appraisal(s) was examined by a review appraiser; and, (3) the review appraiser prepared a signed statement which explains the basis for adjusting comparable sales to reach the review appraiser's determination of the fair market value.
 - b. *Negotiations* - Test supporting documentation to ascertain if: (1) a written offer of the appraised value was made to the property owner; and (2) a written justification was prepared if the purchase price for the property exceeded the amount offered and that the documentation (e.g., recent court awards, estimated trial costs, valuation problems) supports such administrative settlement as being reasonable, prudent, and in the public interest.
 - c. *Residential Relocations* - Test supporting documentation to ascertain if the non-Federal entity made available to the displaced persons one or more comparable replacement dwellings.
3. *Replacement Housing Payments* - For a sample, test the non-Federal entity's records to ascertain if there is documentation that supports the following:
 - a. The owner occupied the displacement dwelling for at least 180 days immediately prior to initiation of negotiations.
 - b. The non-Federal entity examined at least three comparable replacement dwellings available for sale and computed the payment on the basis of the price of the dwelling most representative of the displacement dwelling.
 - c. The asking price for the comparable dwelling was adjusted, to the extent justified by local market data, to recognize local area selling price reductions.
 - d. The allowance for increased mortgage cost "buy down" amount was computed based on the remaining principal balance, the interest rate, and the remaining term of the old mortgage on the displacement dwelling.
 - e. The non-Federal entity prepared written justification on the need to employ last resort housing provisions, if the total replacement housing payment exceeded \$22,500.

4. *Rental or Downpayment Assistance* - For a sample, test the non-Federal entity's records to ascertain if there is documentation that supports the following:
 - a. The displacee occupied the displacement dwelling for at least 90 days immediately prior to initiation of negotiations.
 - b. The displacee rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within one year.
 - c. The non-Federal entity prepared written justification if the payment exceeded \$5250.

5. *Business Relocations* -

For a sample of business relocations:

- a. *Moving Expenses* - Test that payments for moving and related expenses were for actual costs incurred or that fixed payments, in lieu of actual costs, were limited to a maximum of \$20,000 and computed based on the average annual net earnings of the business, as evidenced by income tax returns, certified financial statements, or other reliable evidence.

- b. *Business Reestablishment Expense* - Verify that (1) the displacee was eligible as a farm operation, a non-profit organization, or a small business to receive reestablishment assistance, and (2) the payment was for actual costs incurred and did not exceed \$10,000.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

L. REPORTING

Compliance Requirements

Financial Reporting

Recipients should use the standard financial reporting forms or such other forms as may be authorized by OMB (approval is indicated by an OMB paperwork control number on the form). These other forms may include financial, performance, and special reporting. Each recipient must report program outlays and program income on a cash or accrual basis, as prescribed by the Federal awarding agency. If the Federal awarding agency requires accrual information and the recipient's accounting records are not normally maintained on the accrual basis, the recipient is not required to convert its accounting system to an accrual basis but may develop such accrual information through analysis. The awarding agency may accept identical information from the recipient in machine-readable format, computer printouts, or electronic outputs in lieu of the prescribed formats. (The open-ended entitlement programs (Appendix 1) require quarterly reports.)

The reporting requirements for subrecipients are as specified by the pass-through entity. In many cases, these will be the same as or similar to the following requirements for recipients.

The standard financial reporting forms are as follows:

1. *Financial Status Report (FSR) (SF-269 (OMB No. 0348-0039) or SF-269A (OMB No. 0348-0038))*. Recipients use the FSR to report the status of funds for all non-construction projects and for construction projects when the FSR is required in lieu of the SF-271.
2. *Request for Advance or Reimbursement (SF-270 (OMB No. 0348-0004))*. Recipients use the SF-270 to request Treasury advance payments and reimbursements under non-construction programs.
3. *Outlay Report and Request for Reimbursement for Construction Programs (SF-271 (OMB No. 0348-0002))*. Recipients use the SF-271 to request funds for construction projects unless advances or the SF-270 is used.
4. *Federal Cash Transactions Report (SF-272 (OMB No. 0348-0003) or SF-272-A (OMB No. 0348-0003))*. Recipients use the SF-272 when payment is by advances or reimbursements. The awarding agency may waive the requirement for an SF-272 when electronic payment mechanisms provide adequate data.

Electronic versions of these standard forms are located on the OMB's Internet home page (<http://www.whitehouse.gov/OMB>).

Reporting Under the Payment Management System

Many recipients utilize the Payment Management System (PMS) operated by the Division of Payment Management (DPM) within the Department of Health and Human Services. After a

Federal agency awards a grant, DPM is responsible for controlling payments to the recipient; receiving collections for unexpended funds, duplicate payments, audit disallowances, and interest earned on Federal funds; accounting for disbursement information provided by the recipient; and reporting data equivalent to the SF-272, *Federal Cash Transaction Report*, to the recipient and Federal agency.

Federal awarding agencies enter authorization amounts in PMS to allow recipients to draw Federal funds. There are three methods by which recipients can request funds: (1) the PMS 270 cash request, (2) SMARTLINK II, or (3) CASHLINE systems. SMARTLINK II enables recipients to request Federal funds through computer link with DPM, while CASHLINE allows funds to be requested via a touch tone telephone. Once a quarter, using the authorization amounts provided by the Federal agency, payments requested by recipients, cash collection activity, and disbursement information provided by recipients, DPM generates PMS 272 reports.

The PMS 272 is a series of reports consisting of:

1. PMS 272, *Federal Cash Transactions Report, Status of Federal Cash (OMB No. 0937-0200)*. This report provides a total accountability of all Federal cash received by the recipient. It is partially prepared by DPM based on data reported to DPM, and is completed and certified by the recipient.
2. PMS 272-A, *Federal Cash Transactions Report (OMB No. 0937-0200)*. This report is a continuation of the PMS-272 and is used by the recipient to report cash disbursements back to DPM.
3. PMS 272-B, *Statement of Cash Accountability (OMB No. 0937-0200)*. This report is furnished for the recipient's information and shows how the recipient's cash accountability was derived by DPM.
4. PMS 272-C, *Error Correction Document (OMB No. 0937-0200)*. This report can be used by the recipient to report data reconciliation problems for awards on the PMS 272-A or the Advances to Payee portion in the PMS 272-B.
5. PMS 272-E, *Major Program Statement (OMB No. 0937-0200)*. This report is furnished to States, Indian Tribes, and cross-serviced organizations for their information only. This report lists individual payments during the quarter among the various programs, and provides a cash accountability for all advances received through PMS by major program. All information provided is pre-printed by DPM.
6. PMS 272-F, *Authorizations for Future Periods (OMB No. 0937-0200)*. This report is provided for information only and requires no action by the recipient. It represents all awards posted in the PMS database that have effective dates in future reporting periods.
7. PMS 272-G, *Inactive Documents Report (OMB No. 0937-0200)*. This report lists all awards posted in the PMS database that have become inactive or fully disbursed during the current period or a previous period. In the event that disbursement adjustments are required, they should be reported via the PMS 272-A.

The reports are either mailed to the recipient or electronically downloaded by the recipient using DPM's Electronic 272 System. Recipients should verify the reported amounts. If discrepancies are noted, the report is annotated (or the PMS 272-C is completed) and returned to DPM. The recipient uses the PMS 272-A to report the amount of disbursements made; then signs, dates, and returns the report to DPM. Recipients may report disbursements data electronically using the Electronic 272 process. PMS 272 reporting requirements do not apply to block grant programs; however, DPM does provide block grant recipients with a PMS 272-E, *Major Program Statement*, quarterly. This report is provided solely for information and no action is required by the recipient.

Performance Reporting

Recipients shall submit performance reports at least annually but not more frequently than quarterly. Performance reports generally contain, for each award, brief information on each of the following:

1. A comparison of actual accomplishments with the goals and objectives established for the period.
2. Reasons why established goals were not met, if appropriate.
3. Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

Special Reporting

Non-Federal entities may be required to submit other reporting which may be used by the Federal agency for such purposes as allocating program funding.

Compliance testing of performance and special reporting are only required for data that are quantifiable and meet the following criteria:

1. Have a direct and material effect on the program.
2. Are capable of evaluation against objective criteria stated in the laws, regulations, contract or grant agreements pertaining to the program.

Performance and special reporting data specified in Part 4, Compliance Requirements, meet the above criteria.

Reporting requirements are contained in the following documents:

- a. A-102 Common Rule -- Financial reporting, § ____ .41; Performance reporting, § ____ .40(b).
- b. OMB Circular A-110 -- Financial reporting, § ____ .52; Performance reporting, § ____ .51.

- c. The laws, regulations, and the provisions of contract or grant agreements pertaining to the program.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 §___.500(c).
2. Determine whether required reports for Federal awards include all activity of the reporting period, are supported by applicable accounting or performance records, and are fairly presented in accordance with program requirements.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for reporting and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in §___.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

Note: For recipients using PMS to draw Federal funds, the auditor should consider the following steps numbered 1 through 5 as they pertain to the PMS 272, PMS 272-A, PMS 272-B, and PMS 272-E, regardless of the source of the data included in the PMS reports. Although certain data is supplied by the Federal awarding agency (i.e., award authorization amounts) and certain amounts are provided by DPM, the auditor should ensure that such amounts are in agreement with the recipient's records and are otherwise accurate.

1. Review applicable laws, regulations, and the provisions of contract or grant agreements pertaining to the program for reporting requirements. Determine the types and frequency of required reports. Obtain and review Federal awarding agency, or pass-through entity in the case of a subrecipient, instructions for completing the reports.
 - a. For financial reports, ascertain the accounting basis used in reporting the data (e.g., cash or accrual).

- b. For performance and special reports, determine the criteria and methodology used in compiling and reporting the data.
2. Perform appropriate analytical procedures and ascertain the reason for any unexpected differences. Examples of analytical procedures include:
 - a. Comparing current period reports to prior period reports.
 - b. Comparing anticipated results to the data included in the reports.
 - c. Comparing information obtained during the audit of the financial statements to the reports.

Note: The results of the analytical procedures should be considered in determining the nature, timing, and extent of the other audit procedures for reporting.

3. Select a sample of each of the following report types:
 - a. Financial reports
 - (1) Ascertain if the financial reports were prepared in accordance with the required accounting basis.
 - (2) Trace the amounts reported to accounting records that support the audited financial statements and the schedule of expenditures of Federal awards and verify agreement or perform alternative procedures to verify the accuracy and completeness of the reports and that they agree with the accounting records.
 - (3) For any discrepancies noted in PMS-272 reports, review subsequent PMS-272 reports to ascertain if the discrepancies were appropriately resolved with the Department of Health and Human Services' Division of Payment Management.
 - b. Performance and special reports
 - (1) Trace the data to records that accumulate and summarize data.
 - (2) Perform tests of the underlying data to verify that the data were accumulated and summarized in accordance with the required or stated criteria and methodology, including the accuracy and completeness of the reports.
 - c. When intervening computations or calculations are required between the records and the reports, trace reported data elements to supporting worksheets or other documentation that link reports to the data.

- d. Test mathematical accuracy of reports and supporting worksheets.
4. Test the selected reports for completeness.
 - a. For financial reports, review accounting records and ascertain if all applicable accounts were included in the sampled reports (e.g., program income, expenditure credits, loans, interest earned on Federal funds, and reserve funds).
 - b. For performance and special reports, review the supporting records and ascertain if all applicable data elements were included in the sampled reports.
 5. Obtain written representation from management that the reports provided to the auditor are true copies of the reports submitted or electronically transmitted to the Federal awarding agency, the Department of Health and Human Services' Division of Payment Management for recipients using the Payment Management System, or pass-through entity in the case of a subrecipient.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

M. SUBRECIPIENT MONITORING

Compliance Requirements

A pass-through entity is responsible for:

- Identifying to the subrecipient the Federal award information (e.g., CFDA title and number, award name, name of Federal agency) and applicable compliance requirements.
- Monitoring the subrecipient's activities to provide reasonable assurance that the subrecipient administers Federal awards in compliance with Federal requirements.
- Ensuring required audits are performed and requiring the subrecipient to take prompt corrective action on any audit findings.
- Evaluating the impact of subrecipient activities on the pass-through entity's ability to comply with applicable Federal regulations.

Factors such as the size of awards, percentage of the total program's funds awarded to subrecipients, and the complexity of the compliance requirements may influence the extent of monitoring procedures.

Monitoring activities may take various forms, such as reviewing reports submitted by the subrecipient, performing site visits to the subrecipient to review financial and programmatic records and observe operations, arranging for agreed-upon procedures engagements for certain aspects of subrecipient activities, such as eligibility determinations, reviewing the subrecipient's single audit or program-specific audit results and evaluating audit findings and the subrecipient's corrective action plan.

The requirements for subrecipient monitoring are contained in the A-102 Common Rule (§ ____.37 and § ____.40(a)), OMB Circular A-110 (§ ____.50(a)), Federal awarding agency program regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 § ____.500(c).
2. Determine whether the pass-through entity identified Federal award information and compliance requirements to the subrecipient, and approved only allowable activities in the award documents.
3. Determine whether the pass-through entity monitored subrecipient activities to provide reasonable assurance that the subrecipient administers Federal awards in compliance with Federal requirements.

4. Determine whether the pass-through entity ensured required audits are performed and requires appropriate corrective action on monitoring and audit findings.
5. Determine whether the pass-through entity evaluates the impact of subrecipient activities on the pass-through entity.

Suggested Audit Procedures - Internal Control

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
2. Plan the testing of internal control to support a low assessed level of control risk for subrecipient monitoring and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in §___.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and considering whether additional compliance tests and reporting are required because of ineffective internal control.
3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Suggested Audit Procedures - Compliance

(Note: The auditor may consider coordinating the tests related to subrecipients performed as part of Cash Management (tests of cash reports submitted by subrecipients), Eligibility (tests that subawards were made only to eligible subrecipients), and Procurement (tests of suspension and debarment certifications) with the testing of Subrecipient Monitoring.)

1. Discuss subrecipient monitoring with the pass-through entity's staff to gain an understanding of the scope of monitoring activities, including the number, size, and complexity of awards to subrecipients.
2. Test award documents and/or approved agreements to ascertain if the pass-through entity made subrecipients aware of the award information (e.g., CFDA title and number, award name, name of Federal agency) and requirements imposed by laws, regulations and the provisions of contract or grant agreements, and to verify that the activities approved in the award documents were allowable. This testing should include procedures to verify that the pass-through entity required subrecipients expending \$300,000 or more in Federal awards during the subrecipient's fiscal year to have audits made in accordance with OMB Circular A-133.
3. Review the pass-through entity's documentation of subrecipient monitoring to ascertain if the pass-through entity monitored that subrecipients used Federal funds for authorized purposes and takes actions in response to monitoring findings. This review should include procedures to verify that the pass-through entity monitored the activities of

subrecipients not subject to OMB Circular A-133, using techniques such as those discussed in the Compliance Requirements provisions of this section.

4. Verify that the pass-through entity receives audit reports from subrecipients required to have an audit in accordance with OMB Circular A-133, issues timely management decisions on audit and monitoring findings, and requires subrecipients to take timely corrective action on deficiencies identified in audits and subrecipient monitoring.
5. Verify that the effects of subrecipient noncompliance are properly reflected in the pass-through entity's records.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

N. SPECIAL TESTS AND PROVISIONS

Compliance Requirements

The specific requirements for Special Tests and Provisions are unique to each Federal program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining to the program. For programs listed in this Supplement, the compliance requirements, audit objectives, and suggested audit procedures for Special Tests and Provisions are in Part 4 - Agency Program Requirements or Part 5 - Clusters of Programs. For programs not listed in this Supplement, the auditor shall review the program's contract and grant agreements and referenced laws and regulations to identify the compliance requirements and develop the audit objectives and audit procedures for Special Tests and Provisions which could have a direct and material effect on a major program. The auditor should also inquire of the non-Federal entity to help identify and understand any Special Tests and Provisions.

Additionally, for both programs included and not included in this Supplement, the auditor shall identify any additional compliance requirements which are not based in law or regulation (e.g., were agreed to as part of audit resolution of prior audit findings) which could be material to a major program. Reasonable procedures to identify such compliance requirements would be inquiry of non-Federal entity management and review of the contract and grant agreements pertaining to the program. Any such requirements which may have a direct and material on a major program shall be included in the audit.

Internal Control

The following audit objective and suggested audit procedures should be considered in tests of special tests and provisions in addition to those provided in Part 4 - Agency Program Requirements; Part 5 - Clusters of Programs; and in accordance with Part 7 - Guidance for Auditing Programs Not Included in This Compliance Supplement:

Audit Objective

1. Obtain an understanding of internal control, assess risk, and test internal control as required by OMB Circular A-133 §___.500(c).

Suggested Audit Procedures

1. Using the guidance provided in Part 6 - Internal Control, perform procedures to obtain an understanding of internal control sufficient to plan the audit to support a low assessed level of control risk for the program.
- 2.. Plan the testing of internal control to support a low assessed level of control risk for special tests and provisions and perform the testing of internal control as planned. If internal control over some or all of the compliance requirements is likely to be ineffective, see the alternative procedures in §___.500(c)(3) of OMB Circular A-133, including assessing the control risk at the maximum and

considering whether additional compliance tests and reporting are required because of ineffective internal control.

3. Consider the results of the testing of internal control in assessing the risk of noncompliance. Use this as the basis for determining the nature, timing, and extent (e.g., number of transactions to be selected) of substantive tests of compliance.

Note: The suggested audit procedures above for internal control and compliance testing may be accomplished using dual-purpose testing.

PART 4 - AGENCY PROGRAM REQUIREMENTS

INTRODUCTION

For each Federal program (except R&D and SFA) included in this Supplement, Part 4 provides "I. Program Objectives" and "II. Program Procedures." Also, Part 4 provides information about compliance requirements specific to a program in "III. Compliance Requirements." Finally, Part 4 also provides "IV. Other Information", when there is other useful information pertaining to the program that does not fit in sections I - III. For example, when a program allows funds to be transferred to another program, subsection IV will provide guidance on how those funds should be treated on the Schedule of Expenditures of Federal Awards and Type A program determinations.

When any of five types of compliance requirements ("A. Activities Allowed or Unallowed," "E. Eligibility," "G. Matching, Level of Effort, Earmarking," "L. Reporting," and "N. Special Tests and Provisions") are applicable to a program included in this Supplement, Part 4 will always provide information specific to the program. The auditor should look to Part 3 for a general description of the compliance requirements, audit objectives, and suggested audit procedures and to Part 4 for information about the specific requirements for a program. An exception is that for "N. Special Tests and Provisions;" Part 3 only includes audit objectives and suggested audit procedures for internal control and all other information is included in Part 4.

The other nine types of compliance requirements generally are not specific to a program and therefore are usually not listed in Part 4. However, when one of these other nine types of compliance requirements have information specific to a program, this specific information will be provided with the program in Part 4.

When a requirement is marked as "Not Applicable," it means either that there are no compliance requirements or the auditor is not required to test compliance.

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements. The descriptions of the compliance requirements in Parts 3 and 4 are generally a summary of the actual compliance requirements. The auditor should refer to the referenced citations (e.g., laws and regulations) for the complete compliance requirements.

For R&D and SFA, Part 5 is the equivalent of Part 4; therefore the auditor will need to consider Parts 2, 3, and 5 in developing the audit program for these programs (program clusters).

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT**None FOREIGN FOOD AID DONATION PROGRAM****I. PROGRAM OBJECTIVES**

The United States Agency for International Development (USAID) donates agricultural commodities to foreign countries under Title II of the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. No. 480, Title II) (7 USC 1722). This program includes donated commodities, monetization from the sale of commodities, and payments referred to as Section 202(e) grants (7 USC 1722(e)).

II. PROGRAM PROCEDURES**General Overview**

As the primary conduit of humanitarian assistance for USAID, the Bureau of Humanitarian Response (BHR) is charged with the overall responsibility for USAID's response to humanitarian crises, both natural and complex. The Office of Food For Peace (FFP) manages Pub. L. No. 480, Title II (Title II) provisions for agricultural commodities food assistance that is channeled to foreign countries. Food assistance is also authorized and delivered under Titles I and III of Pub. L. No. 480, as well as under other legislation. This Supplement covers only food assistance delivered under Title II.

USAID may transfer agricultural commodities to address famine or other urgent or extraordinary relief requirements; combat malnutrition, especially in children and mothers; carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity; promote economic and community development; promote sound environmental practices; and carry out feeding programs. Agricultural commodities may be provided to meet emergency food needs through foreign governments and private or public organizations, including intergovernmental organizations. Agricultural commodities also may be provided for non-emergency assistance through private voluntary organizations or cooperatives which are, to the extent practicable, registered with USAID, and through intergovernmental organizations.

Cooperating Sponsor is the term used to define the organization entering into an agreement with USAID for the use of agricultural commodities or funds. Non-governmental Cooperating Sponsors include private voluntary organizations, cooperatives, or public agencies. Title II assistance is provided to U.S. based Cooperating Sponsors for (a) development programs, and (b) emergency programs. Activities under development programs include pilot programs for smallholder agriculture, supporting market liberalization through policy change, nutrition and other child survival programs, community development such as water and sanitation and environmental restoration, or small-scale infrastructure development. A portion of Title II commodities can be monetized by Cooperating Sponsors to fund complementary development interventions to enhance the impact of food programs and contribute to food security. Emergency programs include direct feeding activities to respond to short-term, unanticipated food shortages. Monetization of food aid under emergency programs occurs to fund complementary activities such as distribution, repackaging, and wet feeding in refugee camps.

Program Operation

General

Each Cooperating Sponsor is required to submit an Operational Plan which includes a description of each of the programs it sponsors or proposes to sponsor to USAID for approval. This plan includes program purposes and goals; criteria for measuring program effectiveness; a description of the activities for which commodities, monetized proceeds, or program income will be provided or used; and other specific provisions as required by USAID. If a Cooperating Sponsor submits a multi-year Operational Plan that is approved by USAID, the Operational Plan provided with an Annual Estimate of Requirements (AER) each subsequent year will only cover those components which require updating or the Cooperating Sponsor proposes to change. Operational Plans are required for all nongovernmental Cooperating Sponsors' emergency programs along with the AER; however, emergency situations may not permit the same degree of detail and certainty of analysis that is expected in planning Title II development programs (22 CFR section 211.5).

USAID uses Transfer Authorization to make an award for commodities and supporting costs.

Recipient Agencies

A Cooperating Sponsor may enter into agreements with Recipient Agencies (e.g., schools, institutions, welfare agencies, disaster relief organizations, and public or private agencies) for the delivery of program services. Such an agreement must be in place prior to the transfer of any commodities, monetized proceeds, or program income to the recipient agency. The agreement must require the recipient agency to compensate the Cooperating Sponsor for any assets generated by the foregoing sources that are not used for purposes expressly provided for in the agreement, or that are lost, damaged, or misused as the result of the recipient agency's failure to exercise reasonable care (22 CFR sections 211.2(s) and 211.3(c)).

Monetization

Monetization (the selling of agricultural commodities to obtain foreign currency for use in U.S. assistance programs) is a critical resource for Cooperating Sponsors. The Cooperating Sponsor remains responsible for the commodities, monetized proceeds and program income in accordance with the Operational Plan or Transfer Authorization (22 CFR section 211.3(c)(3)).

Other Resources

In addition to commodities (including ocean and inland freight costs) and monetization proceeds, cash grants are made available to Cooperating Sponsors for establishing new programs and meeting the specific administrative, management, personnel, and Internal Transportation, Storage and Handling (ITSH) costs of the program. These costs are commonly referred to as Section 202(e) grants (7 USC 1722 (e)).

Source of Governing Requirements

This program is authorized under Title II of the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. No. 480, Title II) (7 USC 1722). Implementing regulations are found at 22 CFR part 211.

Availability of Other Program Information

USAID maintains on the Internet a page titled "Pub. L. No. 480 Title II: Food for Peace Programming Documents" (http://www.info.usaid.gov/hum_response/ffp/ffp.htm), which provides program laws, regulations, and other general information.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Use of Funds*
 - a. *General* - The Operational Plan and Transfer Authorization set forth the description of the activities for which commodities, monetized proceeds, or program income shall be used.
 - b. *Section 202(e) Grants* - Funds provided by USAID under this provision of Title II may be used for activities including: (a) direct program costs of a Title II program—administrative, management, distribution, and other program implementation costs; (b) improving the impact of food aid—baseline studies and technical assistance; and (c) costs of implementing audit and evaluation recommendations.
 - c. *Internal Transportation, Storage and Handling* - Emergency programs to cover ITSH costs (7 USC 1736).
2. *Use of Commodities and Monetization Proceeds*
 - a. Except as USAID may otherwise agree in writing, agricultural commodities donated by USAID shall not be distributed, handled or allocated by any military forces (22 CFR section 211.5(e)).
 - b. Within the limits of the total amount of commodities and monetized proceeds and program income as approved by USAID in the Operational Plan or Transfer Authorization, the Cooperating Sponsor may increase or decrease by not to exceed 10 percent the amount of commodities,

monetized proceeds, or program income allocated to approved program categories or components of the Operational Plan (22 CFR section 211.5(a)).

- c. A Cooperating Sponsor is required to provide proper storage, care, and handling of commodities. In determining whether there was a proper exercise of the Cooperating Sponsor's responsibility, USAID considers normal commercial practices in the country of distribution and the problems associated with carrying out programs in developing countries (22 CFR section 211.9(d)).
- d. Cooperating Sponsors are not required to monitor, manage, report on or account for the distribution or use of commodities after title to the commodities has passed to buyers or other third parties pursuant to a sale under a monetization program and all sales proceeds have been fully deposited in the special interest-bearing account established by the Cooperating Sponsor for monetized proceeds (22 CFR section 211.5 (j)).
- e. Monetized proceeds may not be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions (22 CFR section 211.5 (k)(4)).

J. Program Income

Program income means gross income earned by the Cooperating Sponsor from activities supported under the approved program during the program period, including, but not limited to, interest earned on deposits of monetized proceeds, revenue from income generating activities, funds accruing from the sale of containers and nominal voluntary contributions by recipients made on the basis of ability to pay. Monetized proceeds are not considered program income (22 CFR sections 211.2(o) and 211.2(s)).

Program income may be used by Cooperating Sponsors for activities specified in 22 CFR section 211.5 (k), among these being for the transport and distribution of the donated commodities; to implement income generating community development, health, nutrition, and other developmental activities; to make investments with USAID approval; and to improve their financial and other management systems (22 CFR section 211.5 (k)).

Program income may not be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions (22 CFR section 211.5 (k)(4)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable

- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Applicable
- e. *Annual Results Report (OMB No. 0412-0557)* This report is submitted annually and contains both performance and financial information. The auditor is only expected to test the financial data contained in Appendix B, Comprehensive Budget Comparison.

2. Performance Reporting

- a. *Monthly Commodity Status Report (OMB No. 0412-0555)* - This report is submitted monthly by Cooperating Sponsors to track the commodities for each program.
- b. *Monetization Report (OMB No. 0412-0556)* - This report provides information on commodities monetized by cooperating sponsors transaction.

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Recipient Agencies

Compliance Requirement - Cooperating Sponsors are responsible for determining that Recipient Agencies to whom they distribute commodities are eligible in accordance with the Operational Plan or Transfer Authorization and 22 CFR section 211.

Prior to the transfer of commodities, monetized proceeds or program income to a Recipient Agency, the Cooperating Sponsor is required to enter into a written agreement that (a) describes the approved uses of resources provided, (b) requires the Recipient Agency to pay the Cooperating Sponsor the value of any resources that are used for purposes not permitted under the agreement or that are lost, damaged or misused as a result of the recipient's agency's failure to exercise reasonable care of transferred resources, and (c) incorporate by reference or otherwise the terms and conditions set forth in 22 CFR part 211 (22 CFR section 211.3(c)).

In entering into agreements with Recipient Agencies for the transfer of commodities, monetized proceeds or program income, the Cooperating Sponsor remains responsible for such resources transferred in accordance with the Operational Plan or Transfer Authorization and 22 CFR part 211 (22 CFR section 211.3(c)(3)). In monitoring Recipient Agencies, the Cooperating Sponsor is required to provide adequate supervisory personnel for the efficient operation of the program, including personnel to (a) plan, organize, implement, control, and evaluate programs involving distribution of

commodities or use of monetized proceeds and program income; (b) make warehouse inspections, physical inventories, and end-use checks of food or funds, and (c) review books and records maintained by Recipient Agencies that receive monetized proceeds and/or program income (22 CFR section 211.5(b)).

Audit Objective - Determine whether: (1) the Cooperating Sponsor entered into written agreements with the Recipient Agencies; (2) the use of the Recipient Agencies was consistent with the Operational Plan and Transfer Authorization; and (3) the Cooperating Sponsor monitored the activities of Recipient Agencies to ensure proper performance of assigned activities and use of commodities, monetized proceeds, and program income.

Suggested Audit Procedures

- a. Select a sample of Recipient Agencies and ascertain if:
 - 1) The Cooperating Sponsor entered into a written agreement with the Recipient Agency.
 - 2) The Cooperating Sponsor's use of the Recipient Agency was consistent with the Operational Plan and Transfer Authorization.
 - 3) The Cooperating Sponsor appropriately monitored the activities of the Recipient Agency to ensure proper performance of assigned activities and use of commodities, monetized proceeds, and program income.

UNITED STATES DEPARTMENT OF AGRICULTURE

None FOOD FOR PROGRESS PROGRAM
None SECTION 416(b) PROGRAM

I. PROGRAM OBJECTIVES

The U.S. Department of Agriculture (USDA) donates agricultural commodities for use in carrying out assistance programs in developing countries and friendly countries. Such countries are often emerging democracies that have made a commitment to introduce or expand private enterprise elements into the agricultural sectors of their economies.

II. PROGRAM PROCEDURES**General Overview**

The Food for Progress Program and the Section 416(b) Program (Foreign Food Aid Donation Programs) are Commodity Credit Corporation (CCC) programs. CCC implements these programs through personnel of the Foreign Agricultural Service (FAS) and Farm Service Agency (FSA). The CCC, a wholly-owned government corporation within the USDA, may acquire agricultural commodities under various surplus removal and agricultural price support programs and make them available for various domestic and foreign food assistance programs. Under the Food for Progress Act of 1985, CCC may purchase commodities from the market for donation overseas.

Recipients under the Foreign Food Aid Donation Programs are known collectively as Cooperating Sponsors. The CCC makes commodities available to the Cooperating Sponsors for use in the operation of charitable and economic development activities in eligible foreign countries. Cooperating Sponsors may be foreign governments or private entities including non-profit organizations located in the United States but operating programs overseas which are registered with the United States Agency for International Development (7 CFR section 1499.3).

The two programs have different criteria for determining what is an eligible foreign country.

Food for Progress Program - Commodities made available under this program, regardless of funding source, must be donated for use in developing countries and emerging democracies that have made commitments to introduce or expand free enterprise elements in their agricultural economies. The program's authorizing legislation was amended in 1992 to make the independent states of the former Soviet Union eligible for commodity assistance under this program.

Section 416(b) Program - Commodities made available under Section 416(b) outside the scope of the Food for Progress Program may be used to support food assistance programs in friendly countries and developing countries.

Program Operation

General

A Cooperating Sponsor must file a Plan of Operation with the CCC under the Section 416(b) Program. The CCC is also authorized to require such a plan under the Food for Progress Program (7 CFR section 1499.5). This Plan of Operation becomes part of an agreement between the CCC and the Cooperating Sponsor. The plan or agreement stipulates, among other things, the nature of the project the sponsor proposes to operate, the country in which such operations will take place, the types and quantities of commodities needed, the purpose for which the commodities will be used, and the use of either direct distribution or monetization of commodities. The Cooperating Sponsor is responsible for fulfilling the reporting requirements concerning logistics, monetization, and quarterly financial reports.

Direct Distribution

A direct distribution by the Cooperating Sponsor involves the distribution of donated commodities directly to individuals or charitable institutions in the host country referred to as Recipient Agencies (e.g., hospitals, schools, kindergartens, orphanages, homes for the elderly). These Recipient Agencies then use the commodities in serving their clientele.

Recipient Agencies

A Cooperating Sponsor must enter into an agreement with a Recipient Agency prior to the transfer of any commodities, sales proceeds, or program income to the Recipient Agency. The agreement must require the Recipient Agency to compensate the Cooperating Sponsor for any agricultural commodities or other assets generated by the program that are not used for purposes expressly provided for in the agreement, or that are lost, damaged, or misused as the result of the Recipient Agency's failure to exercise reasonable care.

Monetization

A monetization agreement authorizes the Cooperating Sponsor to sell the commodities in the applicable foreign country and use the sales proceeds to support its programmatic activities in accordance with the signed agreement. To the maximum extent possible, the Cooperating Sponsor is expected to conduct the sale of commodities through the private sector of the host country's economy. A Cooperating Sponsor's agreement with the CCC may also provide for bartering commodities in exchange for goods and services to support program operations.

In addition to commodities, the CCC's agreement with the Cooperating Sponsor may provide the Cooperating Sponsor cash assistance to fund program administrative and operational expenses. Program regulations also authorize cash advances for this purpose. Such cash awards may be made only after approval of a program operating budget submitted by the Cooperating Sponsor.

Source of Governing Requirements

Commodity donations are authorized by the Food for Progress Act of 1985 (7 USC 1736o) (Food for Progress Program) and Section 416(b) of the Agricultural Act of 1949 (7 USC 1431(b)) (Section 416(b) Program). Implementing regulations are found at 7 CFR part 1499.

Availability of Other Program Information

For more information, contact the Director, CCC Program Support Division, FAS, USDA at Stop 1031, 1400 Independence Avenue, S.W., Washington, D.C. 20250-1031. Contacts may also be made through: (202) 720-4221 (voice); (202) 690-0251 (fax); or info@fas.usda.gov (E-mail).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed and Unallowed

1. *Use of Funds*

The Plan of Operation and agreement set forth the description of the activities for which commodities, monetized proceeds, or program income shall be used.

Except as approved in advance by CCC, the Cooperating Sponsor shall ordinarily bear all costs incurred subsequent to CCC's delivery of commodities at U.S. ports or intermodal points (7 CFR section 1499.7(d)).

With prior written approval from CCC, the Cooperating Sponsor may use CCC funds for administrative expenses under the Food for Progress Program.

Administrative expenses include expenses incurred for the purchase of goods and services directly related to program administration and monitoring of distribution and monetization operations (7 CFR section 1499.7(b)(3)).

2. *Use of Commodities and Monetization Proceeds*

A Cooperating Sponsor must use USDA commodities furnished under the Foreign Food Aid Donation Programs, and proceeds from the sale of such commodities if applicable, for purposes expressly provided for in its agreement with the CCC (7 CFR sections 1499.10(a) and 1499.12(d)).

Agreements with Cooperating Sponsors implementing Section 416(b) projects may provide for the use of proceeds from monetization operations to fund administrative expenses (7 USC 1431(b)(7)(F)).

C. Cash Management

1. Cash Advances From the CCC

A Cooperating Sponsor may request an advance of up to 85 percent of the amount of an approved program operating budget. Cash advances furnished by the CCC must be deposited in interest bearing accounts. Any interest earned on such advances must be used for the same purposes as the cash advances themselves (7 CFR sections 1499.7(f) and (g)).

2. Commodity Monetization Proceeds

A Cooperating Sponsor must deposit all proceeds from the sale of USDA donated commodities under monetization agreements into interest bearing accounts. Exceptions are permitted where this practice is prohibited by local law or custom of the importing country, or the CCC determines that enforcing the requirement would impose an undue burden on the sponsor (7 CFR section 1499.12(c)).

F. Equipment and Real Property Management

To the extent required by the program agreement, a Cooperating Sponsor must furnish the CCC and FAS with inventory lists of equipment and real property acquired with proceeds from the sale of donated commodities, interest, and other program income (OMB No. 0551-0035). When such assets are no longer needed for program purposes, the sponsor must dispose of them in accordance with 7 CFR section 1499.12(g).

H. Period of Availability of Federal Funds

Any portion of a cash advance not obligated by the Cooperating Sponsor within 180 days of receipt, and any related interest, must be refunded to the CCC within 30 days after the Cooperating Sponsor's obligational authority over the funds has expired (7 CFR section 1499.7(h)).

CCC will not pay any cost incurred by the Cooperating Sponsor prior to the date of the program agreement (7 CFR section 1499.7(c)).

I. Procurement and Suspension & Debarment

A Cooperating Sponsor must follow commercially reasonable practices in procuring goods and services and when engaging in construction activity in accordance with its agreement with the CCC (7 CFR section 1499.12(f)).

J. Program Income

Program income includes interest on sale proceeds and money received by the Cooperating Sponsor, other than monetization proceeds, as a result of carrying out approved activities (7 CFR section 1499.1). A Cooperating Sponsor must use program

income for program purposes identified in its agreement with the CCC (7 CFR section 1499.5).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271 - *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272 - *Federal Cash Transaction Report* - Not Applicable
- e. *Financial Statement (OMB No. 0551-0035)* - Any Cooperating Sponsor that receives an advance of CCC funds must file quarterly financial statements with the CCC.

Key Line Items:

- (1) Cash on hand at beginning of the quarter.
- (2) CCC advances received during the quarter.
- (3) Interest earned during the quarter.
- (4) Expenditures for administrative and Internal Transportation, Storage, and Handling (ITSH) costs during the quarter. Both categories of cost must be subdivided into sub-categories identified in instructions issued by the FAS.
- (5) Cash on hand at the end of the quarter.

2. Performance Reporting

- a. CCC Form 620, *Logistics Report (OMB No. 0551-0035)* - A Cooperating Sponsor must submit this report to the FAS semiannually for each agreement. If commodities are distributed directly, the sponsor must continue submitting reports until all commodities made available under the agreement have been distributed. In the following detail, quantities of commodities are reported in terms of net metric tons (NMT) unless otherwise specified (7 CFR section 1499.16(c)(1)).

Key Line Items - The following line items contain critical information:

- (1) *Commodity Delivery Table* - The following data relating to **shipping** of each commodity provided for in the agreement:
 - (a) Amount received at port.
 - (b) Ocean losses/damages.
 - (c) Amount received at warehouse.
 - (d) Inland losses/damages.
 - (2) *Freight Charges* - The dollar amount of claims for a reduction or recovery of freight charges in both local currency and U.S. dollar equivalents. Claims generated by the ocean and inland portions of the shipment should be separately identified.
 - (3) *Warehouse Losses* - The following data relating to **storage** of each commodity provided for in the agreement:
 - (a) Warehouse losses/damages.
 - (b) Balance available for distribution.
 - (4) *Direct Distribution* - The following data relating to **direct distribution** of each commodity provided for in the agreement:
 - (a) Amount distributed.
 - (b) Distribution losses/damages.
 - (c) Type of institution reached and number of institutions reached.
 - (d) Number of benefitting individuals.
 - (5) *Warehouse Inventory Status* - The warehouse inventory status of each commodity provided for in the agreement: beginning inventory, total received in warehouse, total dispatched from warehouse, warehouse losses, and ending inventory.
- b. CCC Form 621, *Monetization Report (OMB No. 0551-0035)* - A Cooperating Sponsor must submit this report to the FAS semiannually for each agreement that provides for monetization of the commodities. Reports are required until all the commodities have been sold and the proceeds disbursed for authorized purposes. If a monetization project

involves a revolving loan program, current FAS policy requires the Cooperating Sponsor to submit reports only through repayment of the first loan cycle.

Methods a Cooperating Sponsor may use to determine prevailing local market prices for monetization purposes include, but are not limited to, soliciting sealed bids, using public auctions, involving commodity exchanges, or obtaining written statements from the agricultural attache or minister for foreign agricultural affairs in the host country. The FAS home page on the Internet provides agricultural attache contact information. (www.fas.usda.gov/scripts/w/fasfield/ovc_frm.asp)

Key Line Items - The following line items contain critical information:

Part I - Sales:

For each commodity provided for in the agreement: the amount sold, the price per MT (metric ton), exchange rate, proceeds generated in LC (local currency), and proceeds generated in USD (U.S. dollar equivalent).

Part II - Barter:

For each commodity used in barter exchanges: the type and amount bartered, the commodity/service received, and the domestic price on transaction date for commodity bartered and commodity/service received.

Part III - Deposits to Special Funds Account:

The following classes of funds deposited, both in local currency and in the equivalent number of U.S. dollars: sales of commodities, interest, other program income.

Part IV - Disbursements From Special Funds Account:

The amount of each disbursement in both local currency and U.S. dollars, and a brief statement of the use of funds.

Part V - Balance of Special Funds Accounts:

Beginning and ending balances of special fund accounts, both in local currency and in U.S. dollars.

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Recipient Agencies

Compliance Requirement - The Plan of Operation is required to describe the Recipient Agencies that will be involved in the program and a description of each Recipient Agency's capability to perform its responsibilities (7 CFR section 1499.5(a)(3)). A Recipient Agency is defined as an entity located in the foreign country which receives commodities or commodity sale proceeds from a Cooperating Sponsor for the purpose of implementing activities (7 CFR section 1499.1).

The Cooperating Sponsor must enter into a written agreement with a Recipient Agency before transferring USDA commodities, monetization proceeds, or other program income to that entity. Such an agreement must require the Recipient Agency to pay to the Cooperating Sponsor the value of any commodities provided by USDA, sales proceeds, or other program income not used for purposes expressly permitted under the Cooperating Sponsor's own agreement with the CCC; or that are lost, damaged, or misused as the result of the Recipient Agency's failure to exercise reasonable care (7 CFR section 1499.11(a)).

The Cooperating Sponsor must ensure that the activities of any Recipient Agency that receives \$25,000 or more in commodities or commodity sales proceeds are subjected to on-site inspection. The Cooperating Sponsor may meet this requirement by relying upon independent audits of the Recipient Agencies or by conducting its own on-site reviews (7 CFR section 1499.17).

Audit Objective - Determine whether (1) the Cooperating Sponsor entered into written agreements with the Recipient Agencies (2) the use of the Recipient Agencies was consistent with the Plan of Operation, and (3) the Cooperating Sponsor monitored the activities of Recipient Agencies to ensure proper performance of assigned activities and use of commodities, monetized proceeds, and program income.

Suggested Audit Procedures

- a. Select a sample of Recipient Agencies and ascertain if:
 - 1) The Cooperating Sponsor entered into a written agreement with the Recipient Agency.
 - 2) The Cooperating Sponsor's use of the Recipient Agency was consistent with the Plan of Operation.
 - 3) The Cooperating Sponsor appropriately monitored the activities of the Recipient Agency to ensure proper performance of assigned activities and use of commodities, monetized proceeds, and program income.

UNITED STATES DEPARTMENT OF AGRICULTURE**CFDA 10.500 COOPERATIVE EXTENSION SERVICE****I. PROGRAM OBJECTIVES**

The Cooperative State Research, Education, and Extension Service (CSREES) provides formula grant funds to the 1862 land-grant institutions and the 1890 land-grant institutions for cooperative agricultural extension work which consists of the development of practical applications of research knowledge and practical demonstrations of existing or improved practices or technologies in agriculture, uses of solar energy with respect to agriculture, home economics, and rural energy, and related subjects to persons not attending or resident in colleges.

II. PROGRAM PROCEDURES

The First Morrill Act of 1862 provided for the establishment of the 1862 land-grant institutions which are located in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the insular areas of American Samoa, Guam, Micronesia, Northern Marianas, and the Virgin Islands. The Second Morrill Act of 1890 provided for the support of the 1890 land-grant institutions, including Tuskegee University, which are located in 16 States.

The 1862 land-grant institutions receive formula grant funds for cooperative extension work under sections 3(b) and (c) of the Smith-Lever Act and the 1890 land-grant institutions, including Tuskegee University, receive formula grant funds for cooperative extension work under section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA). The only exception is the District of Columbia which receives extension funds under the District of Columbia Postsecondary Education Reorganization Act, Pub. L. No. 93-471, as opposed to the Smith-Lever Act.

Funds are allocated to the land-grant institutions based on specified formulas, and these funds are made available to the land-grant institutions at the beginning of each quarter through the Department of Health and Human Services' Payment Management System (DHHS-PMS). These formulas are based on the farm and rural populations of each state and include an equal portion distributed to all eligible institutions. These funds support the activities commonly referred to as "base programs."

Formula funds are also provided to the 1862 land-grant institutions under section 3(d) of the Smith-Lever Act for the expanded food and nutrition education program which is authorized under section 1425 of NARETPA, and these funds are made available to the 1862 land-grant institutions in the 50 States, the Commonwealth of Puerto Rico, and the insular areas of American Samoa, Guam, Micronesia, Northern Marianas, and the Virgin Islands. To enable low-income individuals and families to engage in nutritionally sound food purchasing and preparation practices, the expanded food and nutrition education program provides for employment and training of professional and paraprofessional aides to engage in direct nutrition education of low-income families and in other appropriate nutrition education programs. To the maximum extent practicable, program aides are hired from the indigenous target population.

The 1862 and the 1890 land-grant institutions are required to submit a 5-Year Plan of Work which describes the extension programs that it intends to administer for the period from October 1, 1999, through September 30, 2004 (7 USC 344 and 3221(d)(3)).

Source of Governing Requirements

The laws governing this program are codified at 7 USC 301-349, 3221, 3222, and 3319.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Formula grant funds may be spent only for the furtherance of cooperative extension work and according to the 5-Year Plan of Work approved by CSREES (7 USC 344 and 3221(d)). The Guidelines for the State Plans of Work for Agricultural Research and Extension Formula Funds were published in the *Federal Register* on July 1, 1999 (64 FR 35910-35919). The 5-Year Plan of Work for fiscal year (FY) 2000 through FY 2004 was due July 15, 1999. This 5-Year Plan of Work may be integrated with the research component of the land-grant institution which is funded under the Hatch Act, and/or the 5-Year Plan of Work may be a joint plan between an 1862 land-grant institution and an 1890 land-grant institution if they are both located in the same State (64 FR 35916).
2. No portion of Smith-Lever Act funds and section 1444 funds of NARETPA may be applied directly or indirectly "to the purchase, erection, preservation or repair of any building or buildings, or the purchase or rental of land" (7 USC 345 and 3221(e)).
3. No portion of Smith-Lever Act funds and section 1444 funds under NARETPA may be applied directly or indirectly in college course teaching or lectures in college (7 USC 345 and 3221(e)).

B. Allowable Costs/Cost Principles

1. *Indirect Costs* - No indirect costs or tuition remission may be charged against the formula grant funds authorized under the Smith-Lever Act or under section 1444 of NARETPA (7 USC 3319).
2. *Retirement Contributions* - Retirement and pension contributions paid from grant funds for individuals whose salaries are paid in whole or in part with grant funds are capped at 5 percent. The deposits and contributions of Federal origin must be at least equaled by the grantee (7 USC 331).

G. Matching

1. Matching

- a. *1862 Land-Grant Institutions in the 50 States* - All formula funds provided to the 1862 land-grant institutions in the 50 States under sections 3(b) and (c) of the Smith-Lever Act must be 100 percent matched. In-kind contributions are not allowed as match for formula funds authorized under sections 3(b) and (c) of the Smith-Lever Act (7 USC 343(e)). Funds provided under section 3(d) of the Smith-Lever Act for the expanded food and nutrition education program (EFNEP) do not require any matching contributions (7 USC 3175).
- b. *1862 Land-Grant Institution in the District of Columbia* - All allocations made to the 1862 land-grant institution in the District of Columbia under the District of Columbia Postsecondary Education Reorganization Act, Pub. L. No. 93-471, must be 100 percent matched. In-kind contributions are not allowed as match for formula funds (Pub. L. No. 93-471 Section 208(c)).
- c. *1862 Land-Grant Institutions in the Commonwealth of Puerto Rico and the insular areas of American Samoa, Guam, Micronesia, Northern Marianas, and the Virgin Islands* - Section 753(e) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, enacted in Division A, section 101(a) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. No. 105-277, 112 stat. 2681-33 (1999 Agriculture Appropriations Act) amended section 3(e) of the Smith-Lever Act to subject the land-grant institutions in the Commonwealth of Puerto Rico, Guam, and the Virgin Islands and pursuant to 7 USC 307 note, the insular areas of American Samoa, Micronesia, and Northern Marianas to matching requirements. In FY 2000, the matching requirement is 30 percent; in FY 2001, 45 percent; and in FY 2002 and thereafter 50 percent. These institutions may apply for a waiver of the matching funds requirement for FY 2000 only. Matching funds means cash contributions and excludes in-kind matching contributions. Matching funds must be used to support research and extension activities as identified in the approved 5-Year Plan of Work or for approved qualifying educational activities (7 USC 343(e) and 3222d; 7 CFR part 3419).
- d. *1890 Land-Grant Institutions* - Section 226 of AREERA added section 1449 to NARETPA to require matching funds from non-Federal sources for formula funds authorized under section 1444 of NARETPA to the 1890 land-grant institutions, including Tuskegee University, for cooperative extension work.

In FY 2000, the matching requirement is 30 percent, in FY 2001 45 percent, and FY 2002 and thereafter 50 percent. These land-grant institutions may apply for a waiver of the matching funds requirement for FY 2000 only. Matching funds, means cash contributions and excludes in-kind matching contributions. Matching funds must be used to support research and extension activities as identified in the approved 5-Year Plan of Work or for approved qualifying educational activities. Matching funds must be available in the same Federal fiscal year as the Federal funds (7 USC 3222d and 7 CFR part 3419).

2. **Level of Effort** - Not Applicable

3. **Earmarking** - Not Applicable

H. **Period of Availability of Federal Funds**

Smith-Lever Act formula funds distributed to the 1862 land-grant institutions may be carried forward five years from the year allocated. For Section 1444 of NARETPA funds allocated to the 1890 land-grant institutions, including Tuskegee University, no more than 20 percent of the funds received in any fiscal year may be carried forward to the succeeding fiscal year (7 USC 3221(a)).

L. **Reporting**

1. **Financial Reporting**

- a. SF-269, *Financial Status Report* - This report is due from the 1862 land-grant institutions by April 1 (7 USC 344(b)) and from the 1890 land-grant institutions, including Tuskegee University, by December 1 (7 USC 3221(d)).
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. **Performance Reporting** - Not Applicable

3. **Special Reporting** - Not Applicable

UNITED STATES DEPARTMENT OF AGRICULTURE
CFDA 10.551 FOOD STAMPS
CFDA 10.561 STATE ADMINISTRATIVE MATCHING GRANTS FOR FOOD
STAMP PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Food Stamp Program is to help low-income households buy the food they need for good health.

II. PROGRAM PROCEDURES

Administration

The U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) administers the Food Stamp Program in cooperation with State and local governments.

State welfare agencies (or county welfare agencies under the oversight of the State government) certify eligibility and provide benefits to households. FNS authorizes, monitors and investigates stores that redeem benefits, provides funding for State administration and benefits, and oversees the operation of State welfare agencies to ensure compliance with Federal laws and regulations.

Federal Funding of Benefits and State Administrative Costs

The Federal Government pays 100 percent of the value of Food Stamp Program benefits and generally reimburses States for 50 percent of their costs to administer the program (7 CFR section 277.4(b)), except for those functions listed in Part III G., Matching. With one exception, the Food Stamp Program's authorizing statute places no cap on the amount of funds available to reimburse States at the 50 percent rate for allowable administrative expenses. The exception is that Federal reimbursement of administrative expenses for electronic benefit transfer (EBT) systems is capped to amounts previously spent for the Federal share of coupon issuance costs. No reimbursement is allowed for State expenditures for activities undertaken as a condition of settlement of quality control claims against the State for low payment accuracy.

Certification

Eligibility for food stamps is based primarily on income and resources. Although welfare reform increases State design options that can affect benefits for recipients, a key feature of the program is its status as an entitlement program with standardized eligibility and benefits.

Assessing Need

Households generally cannot exceed a gross income eligibility standard set at 130 percent of the Federal poverty standard (7 CFR section 273.9(a)(1)). Households also cannot exceed a net income standard which is set at 100 percent of the Federal poverty standard (7 CFR section 273.9(a)(2)). The net income standard allows specified deductions from gross income, e.g., a standard deduction and deductions for medical expenses (elderly and disabled only), excess

shelter costs, and work expenses. Non-financial eligibility criteria, only some of which affect benefit amounts, include: age, school status, citizenship, residency, household composition, work requirements, and disability status. Some non-citizens are ineligible to participate in the program (7 USC 2015(f)). Able-bodied adults without dependents are subject to a time limit for receiving benefits if certain requirements are not met (7 USC 2015(o)).

Application Process

The application process includes completing and filing an application form, being interviewed and having certain information verified. In addition to using information supplied by the recipients, welfare agencies use data from other agencies, such as the Social Security Administration, the Internal Revenue Service, and the State employment security agency, to verify the household's identity and income.

Benefits

Benefit amounts vary with household size and income. As required by law, allotments for various household sizes are revised October 1 of each year to reflect the cost of the Thrifty Food Plan, a model plan for a low-cost nutritious diet that is developed and costed by USDA.

The benefits each household receives are redeemed for food in participating retail stores. Historically, the benefit form has been a paper coupon issued in denominations of \$1, \$5 and \$10. However, States are in the process of transferring to EBT systems, whereby recipients receive debit cards which they can use to purchase food at retailers. Welfare reform legislation requires all States to use EBT by 2002. In a limited number of situations, recipients may receive their benefits in cash.

Benefit Redemption

Generally, households must use program benefits for foods to be prepared and consumed at home. There are, however, some exceptions to this general policy. For example, there are provisions for the homeless to redeem food stamps in authorized restaurants and for residents of some small institutional settings to participate in the program. Retailers redeem the food stamps through the banking system without the direct involvement of State governments. However, the use of EBT increases State involvement in the redemption process; a State must reconcile the funds exiting the EBT system and paid to retailers with amounts drawn from its EBT benefit account with Treasury.

States must obtain an examination by an independent auditor of the State EBT service provider (service organization) regarding the issuance, redemption, and settlement of benefits under the Food Stamp Program in accordance with the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards (SAS) No. 70, Service Organizations. Appendix VII to this Supplement provides additional guidance on these examinations (7 CFR section 274.12(j)(5), OMB No. 0584-0500).

In performing audits under OMB Circular A-133 of the Food Stamp Program, an auditor may use these SAS 70 reports to gain an understanding of internal controls and obtain evidence about the operating effectiveness of controls.

State Responsibilities

A State administering the Food Stamp Program must sign a Federal/State Agreement that commits it to observe applicable laws and regulations in carrying out the program (7 CFR section 272.2). Although the welfare reform legislation provided additional administrative flexibility, the Food Stamp Act remains highly prescriptive. Both the law and regulations prescribe detailed requirements for: (1) meeting program goals, such as providing timely service and rights to appeal; and, (2) ensuring program integrity, such as verifying eligibility, safeguarding coupon inventories, establishing and collecting claims for benefit overpayments, and prosecuting fraud.

To ensure that States operate in compliance with the law, program regulations, and their own Plans of Operation, each State is required to have a system for monitoring and improving its administration of the Food Stamp Program (7 CFR section 275.1(a)), particularly the accuracy of eligibility and benefit determinations. This performance monitoring system includes management reviews, reviews of quality control systems, and reporting to FNS on program performance. State agencies shall conduct a review once every year for large project areas, once every two years for medium project areas, and once every three years for small project areas, unless an alternative schedule is approved by FNS. Projects are classified as large, medium, or small based on State determinations. The State must also ensure corrective action in response to the detection of program deficiencies (7 CFR sections 275.2, 275.5, and 275.16-19).

Federal Oversight and Compliance Mechanisms

FNS oversees State operations through an organization consisting of headquarters and seven regional offices. In addition, about 60 field offices are often involved in State agency oversight.

FNS program oversight includes budget review and approval, reviews of financial and program reports and State management review reports, and on-site FNS reviews. Each year FNS headquarters conveys to its regions the concerns that were elevated to the national level through audits or other mechanisms. Regions combine this with their knowledge of individual States to inform the States of possible vulnerabilities to include in their internal management reviews and corrective action plans.

Although FNS uses technical assistance extensively to promote improvements in State operation of the Program, enforcement mechanisms are also available. In addition to the financial rewards and penalties related to payment accuracy, FNS has other mechanisms to recover other losses and the cost of negligence (7 CFR sections 276.2 and 276.3). For other forms of noncompliance, FNS has the authority to give notice and, if improvements do not occur, withhold administrative funds for failure to implement program requirements (7 CFR section 276.4).

Certification Quality Control System

The Food Stamp Program maintains an extensive quality control system required by law and regulation (7 CFR sections 275.10-14). The system provides State and national measures of the accuracy of eligibility and benefit amount determination (often referred to as payment accuracy), both underpayment and overpayment, and of the correctness of decisions to deny, terminate, or (beginning in FY 2001) suspend benefits.

Measurement

States are required to select a statistically valid sample of cases and to review the cases for eligibility and benefit amount. Review methods in this sample are generally more intensive than those used in determining eligibility. States submit findings of all sampled cases, including incomplete and not-subject-to-review cases, to an automated database maintained by the Federal Government. State quality control data allow a State to be aware on an ongoing basis of its level of accuracy, and allow for the identification of trends and appropriate corrective action.

The applicable FNS regional office reviews each State's sampling plan annually and re-reviews a subsample of the State quality control reviews. The FNS re-review process provides feedback to each State on its quality control system. FNS uses the State's sample and the FNS subsample in a regression formula (described in regulation) to determine payment error rates. By law, the error rate is the combined value of overpayments and under payments to participating households. FNS headquarters also reviews its regional operations and provides technical assistance to assure consistency in the national quality control system.

Rewards and Penalties

A State with both an active payment error rate (improper certifications or benefit determinations) which is at or below 5.9 percent and a negative case error rate (improper denials of certification or benefits improperly terminated) that meets the standards set out at 7 CFR section 275.1(b) is eligible for an enhanced rate of administrative funding as follows: a one percentage point increase in funding for each full one-tenth of a percentage point that the State's active payment error rate is below 6 percent (7 CFR section 275.1(b)(2)). This enhancement to a State's funding level may not exceed a 10 percentage point increase for an active payment error rate below five percent (7 CFR section 277.4(b)(2)). States with error rates in excess of the national average are subject to penalties that are based on the amount of benefits issued in error. Those States pay a portion of the value of benefits in excess of the national average based on a sliding scale that increases as the State's error rate exceeds the national average (7 USC 2025(c)(1)(A) and 2025 (c)(1)(C)).

The Food Stamp Act of 1977, as amended, allows States subject to potential quality control liabilities the option of either a direct repayment to the Federal government or, subject to approval of individual settlement agreements by the Secretary, a reinvestment of all or a portion of these liabilities in unmatched State dollars used for activities designed to reduce payment errors through improvements in program administration (7 CFR section 275.23(e)(11)). All States have settled potential claims for Federal fiscal years 1992-1997 by agreeing to reinvest a portion of their liability in payment accuracy improvement activities that would promote the reduction of error rates and maintain them at low levels. Settlement agreements require States that fail to achieve the established standard to invest additional State funds in such activities.

Corrective Action

There is a specific legislative requirement for corrective action by any State with an error rate above 6 percent (7 USC 2025 (c)(1)(B)). FNS maintains an extensive system of technical assistance for States as they develop and implement corrective action. FNS also monitors the implementation of corrective action plans.

Implications of Quality Control for the Compliance Supplement

The Food Stamp Program Quality Control system uses an intensive State review of more than 55,000 active cases across the United States to measure the accuracy of Food Stamp Program eligibility determinations and benefit amounts. An FNS re-review of more than 18,000 of those cases follows. These samples are statistically valid at the State and national level. Information from Federal program oversight indicates that this sampling system is operating adequately to provide assurances that FNS is measuring the accuracy of eligibility decisions and that these data provide a basis for corrective action to improve the accuracy of eligibility decisions. Therefore, the Quality Control System sufficiently tests individual eligibility in the Food Stamp Program.

However, in those situations where computer systems are integral to the operation of the program, e.g., automated eligibility determination, the auditor should perform tests as deemed necessary to obtain assurance of the integrity of these systems. In those instances where multiple programs share the same systems, e.g., automated intake systems for Temporary Assistance for Needy Families (TANF), Food Stamps, Medicaid, etc., testing may be done as part of the work on multiple programs.

Source of Governing Requirements

This description of Food Stamp Program procedures incorporates provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform, Pub. L. No. 104-193, August 22, 1996), the Balanced Budget Act of 1997 (Pub. L. No. 105-33, August 5, 1997); and the Agricultural Research, Extension and Reform Act of 1998 (Pub. L. No. 105-185, June 23, 1998). Food Stamp Program regulations are found in 7 CFR parts 271 through 285.

Availability of Other Program Information

Additional program information is available from FNS's Food Stamp site on the Internet at www.fns.usda.gov/fsp.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Note: Generally, "E. Eligibility," "G. Matching," "I. Procurement," and "N. Special Tests and Provisions" only apply to State governments. However, when States have delegated to the local

governments functions normally performed by the State as administering agency, e.g., eligibility determination, issuance of food stamps, etc., the related compliance requirements will apply to the local government.

A. Activities Allowed or Unallowed

Funds made available for administrative costs must be used to screen and certify applicants for program benefits, issue benefits to eligible households, conduct fraud investigations and prosecutions, provide fair hearings to households for which benefits have been denied or terminated, conduct nutrition education activities, prepare financial and special reports, operate automated data processing (ADP) systems, monitor subrecipients (where applicable), and otherwise administer the program. Portions of the award made available for specific purposes, such as ADP systems development or Employment and Training activities, must be used for such purposes (7 CFR part 277).

E. Eligibility

1. Eligibility for Individuals

The auditor is not required to test eligibility because detail testing of the individual case files is performed by the quality control unit and reviewed by FNS and the automated system supporting eligibility determinations and processing and tracking food stamp issuances is tested under III.N.1, ADP System for Food Stamps.

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The State is required to pay 50 percent of the costs of administering the program. Exceptions to the 50 percent reimbursement rates are: (a) 100 percent grants to administer the Employment and Training Program, and (b) an increased reimbursement rate for States with high benefit payment accuracy rates (about eight States receive this money) (7 CFR section 277.4(b)).

For Federal fiscal years 1999 through 2002, the Federal reimbursement will be decreased and the State share of administrative costs will increase by an amount equal to certain common certification costs grand-fathered into the States' TANF grant levels but attributable to the Food Stamp Program (7 USC 2025(k)). The amount of each State's downward adjustment was determined by the Department of Health and Human Services, and the States were notified by letter.

Costs of payment error rate reduction activities conducted under reinvestment agreements with FNS are not eligible for any level of Federal reimbursement. Private in-kind contributions are not allowable to count toward the State's share of the program's administrative cost (7 CFR sections 275.4(c) and 275.23(e)(11)(i)(C)).

2. **Level of Effort** - Not Applicable

3. **Earmarking** - Not Applicable

I. **Procurement and Suspension and Debarment**

1. *ADP Systems Development* - For competitive acquisitions of ADP equipment and services costing \$5 million or more (combined Federal and State shares), the State must submit an Advanced Planning Document (APD) for the costs to be approved and allowable as charges to FNS. This threshold is for the total project cost. In addition, noncompetitive acquisitions of \$1 million or more require an APD. Contracts resulting from noncompetitive procurements of more than \$1 million and contracts for EBT systems, regardless of cost, also must be provided to FNS for review (7 CFR section 277.18).

2. *Procurement* - Regardless of whether the State elects to follow State or Federal rules in accordance with the A-102 Common Rule, the following requirements must be followed for procurements initiated on or after October 1, 2000:

- a. A State or local government shall not award a contract to a firm it used to orchestrate the procurement leading to that contract. Examples of services that would disqualify a firm from receiving the contract include preparing the specifications, drafting the solicitation, formulating contract terms and conditions, etc. (7 CFR section 3016.60(b)).
- b. A State or local government shall not apply in-State or local geographical preference, whether statutorily or administratively prescribed, in awarding contracts (7 CFR section 3016.60(c)).

L. **Reporting**

1. **Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting

Note: The requirement for State agencies to automate their food stamp programs includes automation of reporting requirements (7 CFR section 272.10(b)(2)(vi). The testing to ensure accuracy and completeness of the following reports should be coordinated with the testing of the ADP System for Food Stamps (see III.N.1).

- a. FNS-46 - *Food Stamp Program Issuance Reconciliation Report (OMB No. 0584-0080)*. This monthly report is used to account for benefits issued during a report month for each issuance reconciliation point. The FNS-46 reports the reconciliation of food stamp benefits actually issued with the State's (or county's in county-run operations) Master Issuance File. The Master Issuance File contains records on all households eligible to receive benefits (such as a listing of the households and the benefits each is authorized to receive). Actual issuances may be recorded in the Record for Issuance (RFI) or alternative filing system. The RFI is created from the Master Issuance File and shows the amount of benefits the household is eligible to receive and the actual amount issued. Generally, one FNS-46 covers the entire State. However, if a State concurrently operates more than one type of issuance system (Authorization to Participate (ATP), mail issuance, EBT, or cash-out), its FNS-46 report(s) must separately identify the amount of benefits issued under each system.

Key Line Items - The following line items contain critical information.

1. Line 6 - *Total Issuance this month*
 2. Line 7 - *Returns during current month*
 3. Line 9 - *Value of authorized replacements(s) transacted*
- b. FNS-209 - *Status of Claims Against Households (OMB No. 0584-0069)*. If a household receives more food stamp benefits than it is entitled to receive, the State must establish a claim against that household and demand repayment (7 CFR section 273.18 (a)). The State is required to create and maintain a system of records for monitoring these claims against households (7 CFR section 273.18 (l)). States use a variety of manual and computer systems as the source for the line items on the FNS-209. At a minimum, a system must be able to produce a detailed listing of cases that reconciles to the beginning and ending balances on the FNS-209. The State is permitted to retain a portion of the collected repayments: 35 percent of the recovered funds from claims involving fraud or other intentional program violations; and 20 percent of the recovered funds from claims involving inadvertent household errors. No portion of funds

recovered from agency-error overpayments may be retained (7 USC 2025(a)).

The State agency completes the FNS-209 on a quarterly basis to detail the State's activities relating to claims against households. The form is due no later than 30 days after the end of each calendar quarter and is submitted to FNS even if the State agency has not collected any payments (7 CFR section 273.18(i)(2)).

Key Line Items - The following line items contain critical information.

1. Line 3a *Beginning Balance*, and line 13 *Ending Balance* - represent the beginning and ending balances, respectively, of the claims. Columns A, B, and C represent the number and amount of claims by claim type (i.e., intentional program violation, inadvertent household error, and State agency administrative error). The aggregate value of claims activity from the subunits should equal the State totals. The beginning and ending balances should represent the total of individual claims that comprise these balances.
2. Line 14 *Cash, Check, and M.O.* - represents total claims payments made in the form of cash, checks, or money orders.
3. Line 15 *Food Stamps* - represents all payments in the form of food stamp coupons and EBT benefit returns.
4. Line 16 *Recoupment* - represents the value of collections made through allotment reductions.
5. Line 17 *Offset* - represents the total value of collections made by offsetting restored benefits against outstanding claim balances.
6. Line 18b *Cash Adj.(+ or -)* - represents amendments or corrections to the collection summary of a previous report.
7. Line 18c *Non-Cash Adj. (+ or -)* - represents amendments or corrections to the collection summary of a previous report relative to the return of food stamps, recoupment, or offsetting transactions.
8. Line 19 *Transfers (+ or -)* - represents the claims that were contained in the collection summary of a previous report and which are being transferred from one claim category to another claim category.
9. Line 20a *Cash Refunds* - represents the value of cash refunds provided to households that overpaid claims.

10. Line 20b *Non-Cash Refunds* - represents the value of non-cash refunds provided to households that overpaid claims.
 11. Lines 21 *Total*, and 28 *Total Letter of Credit Adjustments* - represent the Total Collection Summary and the Total Letter of Credit Adjustments. The aggregate value of claims collection activity from the subunits should equal the State totals.
- c. FNS-250 - *Food Coupon Accountability Report (OMB No. 0584-0009)* . Monthly, State Agencies must submit an FNS-250 to FNS reporting monthly food stamp coupon issuance and inventory by an individual or consolidated site. The FNS-250, or equivalent information, is provided by each coupon issuer and bulk storage point that distributes food stamps. The reports are to be submitted within 45 calendar days after the last day of coupon issuance each month, and should reach the FNS by the 15th day of the second month following the last day of coupon issuance for the month (7 CFR section 274.4(b)(1)). Verification of FNS-250 information will likely require test work at individual coupon issuers or bulk storage points.

Key Line Items - The following line items contain critical information.

1. Line 14 *Total Available* - represents the total number of food coupons that were available for the month. (Testing this line will require verifying lines 8-13.)
2. Line 15 *Ending Inventory* - represents the total number of food coupons that were on hand at the end of the month.
3. Line 16 *Inventory Difference* - represents the monthly issuance activity for coupon issuers and an unauthorized shortage in inventory for bulk storage locations.
4. Line 19 *Total Value of Coupon Books Issued* - represents the total value of coupons issued during the month based on the physical inventory.
5. Line 22 *Total Value of Coupons Issued Based on Documents* - represents the total value of coupons issued according to records.

N. Special Tests and Provisions

1. ADP System for Food Stamps

Note: See III.E.1, Eligibility for Individuals, for why the testing of the ADP system for food stamps is under this special test and provision instead of under eligibility.

Compliance Requirement - State agencies are required to automate their Food Stamp Program operations and computerize their systems for obtaining, maintaining, utilizing, and transmitting information concerning the Food Stamp Program (7 CFR sections 272.10 and 277.18). This includes: (1) processing and storing all case file information necessary for eligibility determination and benefit calculation, identifying specific elements that affect eligibility, and notifying the certification unit of cases requiring notices of case disposition, adverse action and mass change, and expiration; (2) providing an automatic cutoff of participation for households which have not been recertified at the end of their certification period by reapplying and being determined eligible for a new period (7 CFR sections 272.10(b)(1)(iii) and 273.10(f) and (g)); and, (3) generating data necessary to meet Federal issuance and reconciliation reporting requirements.

Audit Objective - Determine whether the State administering agency's ADP system for food stamps is meeting the requirements to: (1) accurately and completely process and store all case file information for eligibility determination and benefit calculation; (2) automatically cut off households at the end of their certification period unless recertified; and, (3) provide data necessary to meet Federal issuance and reconciliation reporting requirements.

Suggested Audit Procedures

Because of the diversity of ADP hardware and software systems, it is not practical for the Compliance Supplement to provide suggested audit procedures to address each system. See Part 3, E.1.a (suggested audit procedures for eligibility for individuals relating to automated systems) for other guidance in this Supplement concerning testing ADP systems. The auditor should test the ADP system to ascertain if the system:

- (1) Accurately and completely processes and stores all case file information for eligibility determination and benefit calculation.
- (2) Automatically cuts off households from food stamps at the end of their certification period unless the household is recertified.
- (3) Provides data necessary to meet Federal issuance and reconciliation reporting requirements. Note: This testing should be coordinated with the testing of Special Reporting (see III.L.1).

2. EBT Reconciliation

Compliance Requirement - States that use Electronic Benefit Transfer (EBT) must have systems in place to reconcile all of the funds entering into, exiting from, and remaining in the system each day with the State's benefit account with Treasury and EBT contractor records. This includes a reconciliation of the State's issuance files of postings to recipient accounts with the EBT contractor. States (generally through the EBT contractor that operates the EBT system) must also have systems in place to reconcile retailer credit activity as reported through the banking system to client transactions maintained by the processor and to the funds drawn down from the EBT benefit account with Treasury.

States' EBT system processors should maintain audit trails that document the cycle of client transactions from posting to point-of-sale transactions at retailers through settlement of retailer credits. The financial and management data that comes from the EBT processor is reconciled by the State to the Food Stamp Program issuance files and settlement data to ensure that benefits are authorized by the State and that funds have been properly drawn down. States may only draw Federal funds for authorized transactions, i.e., on-line purchases supported by entry of a valid personal identification number (PIN) or purchases using manual vouchers with telephone verification supported by a client signature and an EBT contractor authorization number (7 CFR sections 274.12(a), 274.12(g)(1) and 274.12(j)(1)).

Audit Objective - Determine whether the State reconciles retailer activity to client transactions, to its issuance files of postings to recipient accounts with the EBT contractor, and to postings to and drawdown activity from the State's benefit account with Treasury.

Suggested Audit Procedures

- a. Verify that the State has a system in place to reconcile total funds entering into, exiting from, and remaining in the system each day.
- b. Select and test a sample of reconciliation(s) to verify that discrepancies are followed up and resolved. This is generally a contractor duty.
- c. Verify that the State or its contractor has a system in place to reconcile retailer credits against the information entered into the Automated Clearinghouse network and to the amount of funds drawn down by the State or the State's fiscal agent (the EBT contractor).
- d. Ascertain if the State or its contractor has recorded any non-Federal liabilities in the daily EBT reconciliation, i.e., transactions which cannot be charged to the program. If so, verify that the non-Federal liabilities were funded by non-Federal sources (i.e., the State or the contractor).

3. Issuance Document Security

Compliance Requirement - The State is required to maintain adequate security over, and documentation/records for, Authorization to Participate (ATP) cards, other documents authorizing issuance, EBT cards (7 CFR section 274.12(h)(3)), and the food stamp coupons themselves to prevent: coupon theft, embezzlement, loss, damage, destruction; unauthorized transfer, negotiation, or use of coupons; and alteration or counterfeiting of coupons and other documents authorizing issuance (7 CFR sections 274.7(b) and 274.11(c)).

Audit Objective - Determine whether the State maintains security over instruments used to authorize issuance of food stamp benefits.

Suggested Audit Procedures

- a. Observe the physical security over food stamps, ATP cards, EBT cards, and/or other negotiable instruments used in the issuance process.
- b. Verify that food stamp coupons, ATP cards, and EBT cards returned from the Postal Service are returned to inventory or destroyed.

4. Physical Inventory

Compliance Requirement - Each coupon issuer and bulk storage point that distributes food stamps is required to prepare a Food Coupon Accountability Report (FNS-250) to report monthly coupon issuance and inventory (7 CFR section 274.4(b)). Each State agency must assure that day-to-day operations of all coupon issuers comply with regulations by performing a triennial on-site review, including physical inventory, of each coupon issuer and bulk storage site under its direction (7 CFR section 274.1(c)).

Audit Objective - Determine whether the State agency has conducted required triennial on-site reviews, including physical inventories, at coupon issuers and bulk storage points.

Suggested Audit Procedures

Determine by inquiry or inspection of records that the State agency conducts the required triennial reviews of coupon issuers and bulk storage points to ensure physical inventories are appropriate, inventories are made as required, and differences between recorded and actual inventories are reconciled.

5. Food Coupon Inventory Levels

Compliance Requirement - State agencies must monitor the coupon inventories of coupon issuers and bulk storage points to ensure that inventories are neither excessive nor insufficient to meet the issuance needs and requirements. Inventory levels are not to exceed a "six-month supply," taking into account coupons on hand and on order (7 CFR section 274.7(a)(1)). State agencies must review the FNS-250 and other reports including shipping and transfers, returned and/or replaced mail-issuances, improperly manufactured or mutilated coupons, and reports of shortage or overage of food coupon books to ensure the accuracy of monthly inventories, compliance with required inventory levels, and accuracy and reasonableness of coupon orders.

Audit Objective - Determine whether food stamp coupon levels are neither excessive nor insufficient to meet the issuer's requirements.

Suggested Audit Procedures

Verify that the State agencies determine that inventory levels at coupon issuers and bulk storage points are neither excessive nor insufficient to meet the issuance needs and requirements, and that inventory levels do not exceed a six-month supply, taking into account coupons on hand and on order.

6. Quality Control Unit

Compliance Requirement - The State or local government must establish a quality control unit that is independent of program operations (7 CFR section 275.2(b)).

Audit Objective - Determine whether the quality control unit is organizationally independent of program operations.

Suggested Audit Procedures

Ascertain that the quality control unit is organizationally independent of program operations.

UNITED STATES DEPARTMENT OF AGRICULTURE

CFDA 10.553	SCHOOL BREAKFAST PROGRAM (SBP)
CFDA 10.555	NATIONAL SCHOOL LUNCH PROGRAM (NSLP)
CFDA 10.556	SPECIAL MILK PROGRAM FOR CHILDREN (SMP)
CFDA 10.559	SUMMER FOOD SERVICE PROGRAM FOR CHILDREN (SFSPC)

I. PROGRAM OBJECTIVES

The objectives of the child nutrition cluster programs are to: (1) assist States in administering food services that provide healthful, nutritious meals to eligible children in public and non-profit private schools, residential child care institutions, and summer recreation programs; and (2) encourage the domestic consumption of nutritious agricultural commodities.

II. PROGRAM PROCEDURES**General Overview**

At the Federal level, these programs are administered by the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture (USDA). FNS generally administers these programs through grants to State agencies. Each State agency, in turn, enters into agreements with subrecipient organizations for local level program operation and the delivery of program benefits and services to eligible children. The types of organizations that receive subgrants under each program are described below under "Program Descriptions." In cases where a State agency is not permitted or is not available to administer the program(s), they are administered directly by FNS regional offices. The regional offices then perform the administrative functions for local program operators that are normally performed by a State agency (7 CFR sections 210.3, 215.3, 220.3, and 225.3). For purposes of this discussion, State agencies and FNS regional offices are referred to collectively as "administering agencies."

Under 7 CFR part 250 (General Regulations and Policies - Food Distribution), USDA makes donated agricultural commodities available for use in the operation of all child nutrition programs except the SMP. FNS enters into agreements with State distributing agencies for the distribution of USDA donated commodities. The State distributing agencies, in turn, enter into agreements with local program operators which are defined collectively as "recipient agencies." A State may designate a recipient agency to perform its storage and distribution duties. A State distributing agency may engage a commercial food processor to use the commodities in the manufacture of food products, and then deliver such manufactured products to recipient agencies.

Program Descriptions*Common Characteristics*

The programs in the Child Nutrition Cluster are all variants of a basic program design having the following characteristics:

- a. Local program operators provide prepared meals to children in structured settings. Four types of meal service may be authorized: breakfast, lunch, supplements

(snacks), and supper. Milk service may be authorized only under the SMP. The types a particular program operator may offer are determined first by the respective program's authorizing statute and regulations, and second by the program operator's agreement with its administering agency.

- b. While all children in attendance are entitled to receive these program benefits, children whose households meet stated income eligibility criteria generally receive their meals (or milk, where applicable) free or at a reduced price. With certain exceptions, children not eligible for free or reduced price meals or free milk must pay the full prices set by the program operator for these items. A program meal must be priced as a unit.

There are two systems of charging for program meals: "pricing" and "nonpricing" programs. In a pricing program, children who do not qualify for free meals pay a separate fee for their meals. The fee may be collected at the point of service; through a separate daily, weekly, or monthly meal charge or meal ticket payment; by earmarking a portion of the child's tuition payment expressly for food service; or through an identifiable reduction from the standard tuition rate for meals provided by parents. In a nonpricing program, no separate identifiable charges are made for meals served to enrolled children. Examples of organizations that often operate nonpricing programs include juvenile detention centers, boarding schools, other residential child care institutions, and some private schools.

- c. Federal assistance to local program operators takes the form of cash reimbursement. In addition, USDA donates food (commodities) under 7 CFR part 250 for use in preparing meals to be served under the NSLP, SBP, and SFSPC.
- d. To obtain cash and commodity assistance, a local program operator must submit monthly claims for reimbursement to its administering agency. All meals (and half-pints of milk under SMP) claimed for reimbursement must meet Federal requirements and be served to eligible children.
- e. The program operator's entitlement to reimbursement payments is generally computed by multiplying the number of meals (and/or half-pints of milk under the SMP) served by a prescribed per-unit payment rate (called a "reimbursement rate"). Different reimbursement rates are prescribed for different categories and types of service. "Type" refers to the kind of service (breakfast, lunch, milk, etc.), while "category" refers to the beneficiary's eligibility (free, reduced price, or paid). Under this formula, a local program operator's entitlement to funding from its administering agency is generally a function of the categories and types of service provided. Therefore, the child nutrition cluster programs are said to be "performance funded."

Characteristics of Individual Programs

The program-specific variants of this basic program model are outlined below.

- a. School Nutrition Programs (NSLP and SBP) - These programs target children enrolled in schools. For program purposes, a "school" is a public or non-profit private school of high school grade or under, or a public or licensed non-profit private residential child care institution. At the local level, a school food authority (SFA) is the entity with which the administering agency makes an agreement for the operation of the programs. A SFA is the governing body (such as a school board) legally responsible for the operation of the NSLP and/or SBP in one or more schools. A school operated by a SFA may be approved to serve breakfast and lunch. A school in which the SFA operates an after-school care program with an educational or enrichment component may also be approved to serve supplements. See also the description of the SMP, below.
- b. SFSPC - The SFSPC is directed toward children in low-income areas when school is not in session. It is locally operated by approved sponsors, which may include public or private non-profit SFAs, public or private non-profit residential summer camps, or units of local, municipal, county or State governments or other private non-profit organizations that develop a special summer or other school vacation program providing food service similar to that available to children during the school year under the NSLP and SBP.

A feeding site under a sponsor's oversight may be approved to serve breakfast, lunch, supplements, and/or supper. Except for children enrolled in participating summer camps, all participating children receive their meals free. Participating summer camps must identify children eligible for free or reduced price meals and may charge those not income-eligible for free meals. Sponsors are reimbursed for operating (meal service) costs at the lesser of the performance funding formula outlined above or actual costs incurred (7 CFR section 225.9(d)(7)), except in certain cases described in III. (Compliance Requirements), below. In addition, sponsors receive payment for administrative costs under a formula described at 7 CFR section 225.9(d)(8).

Although USDA donated foods are made available under the SFSPC, they are restricted to sponsors that prepare the meals to be served at their sites and those that have entered into an agreement with a SFA for the preparation of meals.

- c. SMP - The SMP provides milk to children in schools and child care institutions that do not participate in other Federal meal service programs. However, schools operating the NSLP and/or SBP may also participate in the SMP to provide milk to children in half-day pre-kindergarten and kindergarten programs where children do not have access to the NSLP and SBP. A SFA or institution operating the SMP as a pricing program may elect to serve free milk but there is no Federal requirement that it do so. The SMP has no reduced price benefits.

Program Funding

FNS furnishes funds to State agencies by letter of credit. The State agencies use the meal reimbursement funds to support program operations by SFAs, institutions, and sponsors under

their oversight, and the administrative funds to fund their own administrative costs. Funding for FNS regional office-administered programs is handled through FNS's Agency Financial Management System (AFMS).

Funding Program Benefits

FNS provides cash reimbursement to each State agency for each meal served under the NSLP, SBP, and SFSPC and for each half pint of milk served under the SMP. The State agency's entitlement to cash assistance for NSLP and SBP meals, NSLP supplements, and SMP milk not reimbursed at the "free" rate is determined by multiplying the number of units served within the State by a "national average payment rate" set by FNS. Cash reimbursement to a State agency under the SFSPC is the lesser of actual costs incurred (reimbursement paid to sponsors) or the product obtained by multiplying the number of meals served by maximum rates of reimbursement established by FNS.

FNS sets the national average payment rate or maximum rate of reimbursement for each type of meal service (breakfast, lunch, supplement, supper) within each program. A national average payment rate is also set for each eligibility category within the NSLP and SBP. Basic levels of cash assistance are provided for all lunches and breakfasts, respectively. This basic rate is increased by two cents for each lunch served in SFAs in which 60 percent or more of the lunches served during the second preceding school year were served free or at a reduced price. Additional assistance is provided for lunches and breakfasts served to children eligible for free or reduced price meals. A higher rate of reimbursement (not to exceed cost) is paid for each breakfast served free or at reduced price in schools determined to be in "severe need." Milk served free under the SMP is funded at the average cost of milk. Since all meals are served free under the SFSPC, all meals of the same type are funded at the same rate.

State agencies earn commodity assistance based on the number of program meals served in schools participating in the NSLP and for certain sponsors participating in the SFSPC. The State agency's level of commodity assistance is the product of the number of meals served in the preceding year multiplied by the national average payment for donated foods.

FNS adjusts the national average payment rates and maximum rates for reimbursement annually for NSLP, SBP, and SFSPC to reflect changes in the Consumer Price Index and for the SMP to reflect changes in the Producer Price Index. FNS adjusts commodity assistance rates annually to reflect changes in the Price Index for Food Used in Schools and Institutions. The current announcements of all these assistance rates can be found on the Internet at www.fns.usda.gov/cnd (7 CFR sections 210.4(b), 220.4(b), 215.1, and 225.9(d)(9)).

A State agency uses the cash assistance obtained through performance funding to reimburse participating SFAs and sponsors for eligible meals served to eligible persons. Like "national average payments" to States, reimbursement payments are also made on a per-meal (performance funding) basis. SFAs and SFSPC sponsors receive commodities to the extent they can use them for program purposes; however, certain types of products are limited by an entitlement.

Funding State-Level Administrative Costs

In addition to funding for reimbursement payments to SFAs and sponsors, State agencies receive funding from several sources for costs they incur to administer these programs.

- a. State Administrative Expense (SAE) Funds - These funds are granted under CFDA 10.560, which is not included in the child nutrition cluster.
- b. SFSPC State Administrative Funds - In addition to regular SAE grants, administrative funds are made available to State agencies under CFDA 10.559 to assist with administrative costs of the SFSPC (7 CFR section 225.5). The State agency must describe its intended use of the funds in a Program Management and Administrative Plan submitted to FNS for approval (7 CFR section 225.4).

Source of Governing Requirements

The programs included in this cluster are authorized by the Richard B. Russell National School Lunch Act (NSLA) (42 USC 1751 *et seq.*) and the Child Nutrition Act of 1966 (CNA) (42 USC 1771 *et seq.*). The implementing regulations for each program are codified in parts of 7 CFR as indicated: National School Lunch Program (NSLP), part 210; School Breakfast Program (SBP), part 220; Special Milk Program for Children (SMP), part 215; and, Summer Food Service Program for Children (SFSPC), part 225. Regulations at 7 CFR part 245 address eligibility determinations for free and reduced price meals and free milk in schools.

Availability of Other Information

Additional program information is available from the FNS's Child Nutrition site on the Internet at www.fns.usda.gov/cnd.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Reimbursement for Sponsor Operating Costs (SFSPC)

Operating costs are the costs a sponsor incurs to operate a food service under the program. The administering agency reimburses the sponsor at the lesser of its operating costs or the result of the performance funding (meals-times-rates) formula. The sponsor's operating costs may include: the cost of obtaining food (including the purchase of vended meals), labor directly involved in the preparation and service of food, the cost of nonfood supplies, rental and use allowances for equipment and space, and the cost of transporting children in rural areas to feeding sites in rural areas. A sponsor may claim as operating costs the cost of meals served to adults performing necessary food service labor, but may

not claim costs of acquiring land, purchasing or constructing buildings, or altering existing buildings. Interest and the value of third-party in-kind contributions are also excluded from operating costs (7 CFR sections 225.9(d)(5) and (d)(7), and section 225.15(c)). Also see the definition of "operating costs" at 7 CFR section 225.2.

2. Reimbursement for Sponsor Administrative Costs (SFSPC)

Sponsor reimbursement is provided for central-level general administrative overhead, including such costs as planning and organizing, site monitoring, preparation of claims and reports, and audits. Payment to sponsors for administrative costs will be the lesser of: actual net expenses incurred for administrative costs; or the number of meals by type actually served to eligible children multiplied by the administrative rates for those meals; or the administrative budget that was approved by the administering agency and included in the program agreement, along with any approved amendments to it (7 CFR sections 225.9(d)(5) and (d)(8)), and section 225.15(c)). Also see the definition of "administrative costs" at 7 CFR section 225.2.

3. Exception for States With SFSPC Pilot Projects

Operating and administrative cost comparisons are not required for eligible school, public, and camp sponsors in 13 States (Alaska, Arkansas, Idaho, Indiana, Iowa, Kansas, Kentucky, Nebraska, New Hampshire, North Dakota, Oklahoma, Texas, and Wyoming) and Puerto Rico from October 1, 2000 through September 30, 2003 (42 USC 1769(f)).

E. Eligibility

1. Eligibility for Individuals

Any child enrolled in a participating school or summer camp, or attending a SFSPC feeding site, who meets the applicable program's definition of "child" may receive meals under the applicable program. Children belonging to households meeting nationwide income eligibility requirements may receive meals at no charge or, in the case of the NSLP and SBP, at reduced price. Children in schools operating the School Nutrition Programs, or in camps operating the SFSPC, who have been determined ineligible for free or reduced price meals pay the full price, set by the SFA or sponsor, for their meals (7 CFR sections 225.1, 225.15(e) and (f), 245.1(a), and 245.3(c); definition of "Subsidized lunch (paid lunch)" at 7 CFR section 210.2; and definitions of "Camp," "Closed enrolled site," "Open site," and "Restricted open site" at 7 CFR section 225.2).

a. General Eligibility

The specific groups of children eligible to receive meals under each program are identified in the respective program's regulations.

- (1) *School Nutrition Programs (NSLP and SBP)* - A "child" is defined as: (1) a student of high school grade or under (as determined by the State educational agency) enrolled in an educational unit of high school grade or under, including students who are mentally or physically handicapped (as determined by the State) and who are participating in a school program established for the mentally or physically handicapped; (2) a person who has not reached his/her twenty-first birthday and is enrolled in a public or non-profit private residential child care institution; or (3) for meal supplements served in after-school care programs operated by an eligible school, a person who is 18 years of age or under, except that children who turn 19 during the school year remain eligible for the duration of the school year (42 USC 1766a(b); definition of "Child" at 7 CFR sections 210.2 and 220.2).
- (2) *SFSPC* - A "child" is defined as: (1) any person 18 years of age and under; and (2) a person over 18 years of age, who has been determined by the State educational agency or a local public educational agency to be mentally or physically handicapped, and who participates in a public or non-profit private school program established for the mentally or physically handicapped (Definition of "Children" at 7 CFR section 225.2).
- (3) *SMP* - Schools operating this program use the same definition of "child" that is used in the NSLP and SBP, except for provision (3) under the definition of "child" at 7 CFR section 210.2 regarding supplements served in after-school care programs. Where the program operates in child care institutions, as defined in 7 CFR section 215.2(e), a "child" is any enrolled person who has not reached his/her nineteenth birthday (7 CFR section 215.2(e-1)).

b. Eligibility for Free or Reduced Price Meals or Free Milk

- (1) *General Rule: Annual Certification* - A child's eligibility for free or reduced price meals under a Child Nutrition Cluster program may be established by the submission of an annual application or statement which furnishes such information as family income and family size. SFAs, institutions, and sponsors determine eligibility by comparing the data reported by the child's household to published income eligibility guidelines. In addition to publishing income eligibility information in the *Federal Register*, FNS makes it available on the FNS web site (www.fns.usda.gov/cnd/) under "Child Nutrition Programs, Income Eligibility Guidelines."
 - (a) *School Nutrition Programs* - Children from households with incomes at or below 130 percent of the Federal poverty level are eligible to receive meals or milk free

under the School Nutrition Programs. Children from households with incomes above 130 percent but at or below 185 percent of the Federal poverty level are eligible to receive reduced price meals. Persons from households with incomes exceeding 185 percent of the poverty level pay the full price (7 CFR sections 245.2(g), and 245.3, and 245.6; sections 9(b)(1) and 17(c)(4) of the NSLA, 42 USC 1758(b)(1) and 42 USC 1766(c)(4); sections 3(a)(6) and 4(e) of the CNA of 1966, 42 USC 1772(a)(6) and 1773(e)).

- (b) *SFSPC* - While all SFSPC meals are served at no charge, the sponsors of certain types of feeding sites must make individual determinations of eligibility for free or reduced price meals in accordance with 7 CFR section 225.15(f). See III.E.3. (Eligibility of Subrecipients) for more information.
- (c) *SMP* - Eligibility for free milk in SFAs electing to serve free milk is limited to children of households meeting the income eligibility criteria for free meals under the School Nutrition Programs. The SMP has no provision for reduced price benefits (Definition of "Free milk" at 7 CFR section 215.2, and 7 CFR sections 215.7(b), 245.3, and 245.6).

Annual eligibility determinations may also be based on the child's household receiving benefits under the Food Stamp Program, Food Distribution Program on Indian Reservations (FDPIR), the Head Start Program (42 USC 1758(b)(6)(A)), or, under most circumstances, the Temporary Assistance for Needy Families (TANF) program (42 USC 1758(b)). A household may furnish documentation of its participation in one of these programs; or the school, institution, or sponsor may obtain the information directly from the State or local agency that administers these programs (7 CFR section 245.6(b)).

- (2) *Exceptions* - The following are exceptions to the requirement for annual determinations of eligibility for free or reduced price meals and free milk under the child nutrition cluster programs.
 - (a) *Puerto Rico and the Virgin Islands* - These two State agencies have the option to provide free meals and milk to all children participating in the School Nutrition Programs, regardless of each child's economic circumstances. Instead of counting meals and milk by type, they may determine the percentage that each type comprises of the total count using statistical surveys. The survey design must be approved by FNS (7 CFR section 245.4).

- (b) *Special Assistance Certification and Reimbursement Alternatives* - Special Assistance Certification and Reimbursement Alternatives, Provisions 1, 2 and 3, are authorized by Section 11(a)(1) of the NSLA (42 USC 1759a(a)(1)). Provision 1 may be used in schools where at least 80 percent of the children enrolled are eligible for free or reduced price meals. Under Provision 1, eligibility determinations for children eligible for free meals under the School Nutrition Programs must be made once every two consecutive school years. Children who qualify for reduced price meals are certified annually (42 USC 1759a(a)(1)(B); 7 CFR section 245.9(a)).

For Provisions 2 and 3, extended cycles are allowed for eligibility determinations. Since the schools also use alternative meal counting and claiming procedures, descriptions of Provisions 2 and 3 are presented below in III.L.3. (Special Reporting).

- (c) *SFSPC Open Sites and Restricted Open Sites* - Determinations of individual household eligibility are not required for meals served free at SFSPC "open sites," or "restricted open sites." See "Eligibility for Subrecipients," below, for more information.

c. Reduced Price Charges for Program Meals

The SFA sets meal prices. However, the price for a reduced price lunch, breakfast, or snack may not exceed \$0.40, \$0.30, and \$0.15, respectively (See definition of "reduced price meal" in 7 CFR section 245.2.).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

Administering agencies may disburse program funds only to those organizations that meet eligibility requirements. Under the NSLP, SBP and SMP, this means the definition of "School Food Authority" (SFA) as described at 7 CFR sections 210.2, 215.2, and 220.2., respectively. Eligible SFSPC organizations are described at 7 CFR section 225.2 under the definition of "Sponsor." Additional organizational eligibility requirements apply to the SFSPC, NSLP Afterschool Snacks, and the SBP at the feeding site level (see detail below).

- a. SFSPC - Federal regulations at 7 CFR 225.2 define sites in four ways:

- (1) *Open Sites* - At an open site, meals are made available to all children in the area where the site is located. This area must be one in which poor economic conditions exist (one in which at least 50 percent of the children are from households that would be eligible for free or reduced price school meals under the NSLP and the SBP). Data to support a site's eligibility may include: (a) free and reduced price eligibility data maintained by schools that serve the same area; (b) census data; or (c) other statistical data, such as information provided by departments of welfare and zoning commissions.
 - (2) *Restricted Open Sites* - A restricted open site is one that was initially open to broad community participation, but at which the sponsor has restricted attendance for reasons of safety, security, or control. A restricted open site must serve an area in which poor economic conditions exist, and its eligibility may be documented with the same kinds of data listed above for open sites.
 - (3) *Closed Enrolled Sites* - A closed enrolled site makes meals available only to enrolled children, as opposed to the community at large. Its eligibility is based not on serving an area where poor economic conditions exist, but on the eligibility of enrolled children for free or reduced price school meals. At least 50 percent of them must be so eligible. The sponsor must determine their eligibility through the application process described at 7 CFR 225.15(f).
 - (4) *Camps* - Eligible camps include residential summer camps and nonresidential day camps that offer regularly scheduled food service as part of organized programs for enrolled children. A camp need not serve an area where poor economic conditions exist. Instead, the camp's sponsor must determine each enrolled child's eligibility for free SFSPC meals through the application requirements at 7 CFR sections 225.15(e) and (f). Unlike other sponsors, the sponsor of a camp receives reimbursement only for meals served to children eligible for free or reduced price school meals (7 CFR 225.14(d)(1)).
- b. *SBP - Severe Need Schools* - In addition to the national average payment, FNS makes additional payments for breakfasts served to children qualifying for free or reduced price meals at schools that are in severe need. The administering agency must determine whether a school is eligible for severe need reimbursement based on the following eligibility criteria: (1) the normal reimbursement rate per meal established by the Secretary of Agriculture is insufficient to cover the costs of the school's breakfast program; (2) the school is participating in or desiring to initiate a breakfast program; and (3) 40 percent or more of the lunches served to students at the school in the second preceding school year under the NSLP

were served free or at a reduced price. Administering agencies must maintain on file, and have available for reviews and audits, the source of the data to be used in making individual severe need determinations. The administering agency is also responsible for establishing systems for determining breakfast costs (7 CFR section 220.9(e)).

- c. NSLP - Afterschool Snacks - Reimbursement for afterschool snacks is made available to those school districts which (a) operate the NSLP in one or more of their schools and (b) sponsor or operate afterschool care programs with an educational or enrichment purpose. In the case of snacks served at an eligible site located in the attendance area of a school in which at least 50 percent of the enrolled children are certified eligible for free and reduced price school meals, all snacks are served free and are reimbursed at the free rate regardless of individual eligibility. Schools and sites not located in such an area may also participate, but they must count and claim supplements as free, reduced price and paid, depending on the eligibility status of the children served, and they must maintain documentation of eligibility for children receiving free or reduced price supplements (42 USC 1766a).

G. Matching, Level of Effort, Earmarking

1. Matching

NSLP - State Revenue Matching Requirement

The State is required to contribute State appropriated funds amounting to at least 30 percent of the funds it received under Section 4 of the NSLA in the school year beginning July 1, 1980, unless otherwise exempted by 7 CFR section 210.17. In the fall of each year, FNS furnishes each State with a report giving data for the State's use in determining its matching requirements. However, the State revenues derived from the operation of the NSLP and State revenues expended for salaries and administrative expenses of the NSLP at the State level are not considered in this computation. In States with per capita income lower than the national average, the 30 percent match is proportionately reduced (sections 7(a)(1) and (2) of the NSLA, and 7 CFR section 210.17(a)).

- a. Private School Exemption - States that are prohibited by law from disbursing State appropriated funds to non-public schools are not required to match "General Cash Assistance" (Section 4) funds expended for meals in such schools, or to disburse to such schools any of the State revenue required to meet the matching requirements. Also, the matching requirements do not apply to schools in which the program is administered by a FNS Regional office (7 CFR section 210.17(b)).
- b. Applicable State Revenues - State revenues, appropriated or used specifically for program purposes, are eligible for meeting the matching

requirement. States use a number of methods to apply funds toward the matching requirement. For example, they may: (1) disburse such funds directly to SFAs, generally on a per-meal basis; (2) pay bills that SFAs would otherwise have had to pay themselves (such as FICA payments for school food service workers); and (3) track State-appropriated funds that SFAs have indirectly applied to the program through transfers from their general funds to their school food service funds (7 CFR section 210.17(d)).

2. Level of Effort - Not Applicable

3. Earmarking - Not Applicable

I. Procurement and Suspension and Debarment

1. *Procurement* - Regardless of whether the State elects to follow State or Federal rules in accordance with the A-102 Common Rule, the following requirements must be followed for procurements initiated by State agencies and SFSPC institutions on or after October 1, 2000. The effective date of these requirements for SFAs is set by their administering agencies, but cannot be later than July 1, 2001.

a. *Contractor Selection* - A State agency, SFA, institution, or sponsor shall not award a contract to a firm it used to orchestrate the procurement leading to that contract. Examples of services that would disqualify a firm from receiving the contract include preparing the specifications, drafting the solicitation, formulating contract terms and conditions, etc. (7 CFR sections 3016.60(b) and 3019.43).

b. *Geographical Preference* - A State or local government shall not apply in-State or local geographical preference, whether statutorily or administratively prescribed, in awarding contracts (7 CFR section 3016.60(c)).

2. *Suspension and Debarment* - Mandatory awards by pass-through entities to subrecipients are excluded from the suspension and debarment rules (7 CFR section 3017.110(a)(2)(i)).

L. Reporting

1. Financial Reporting

a. SF-269, *Financial Status Report* - Applicable

b. SF-270, *Request for Advance or Reimbursement* - Applicable

- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. FNS-13, *Annual Report of State Revenue Matching (OMB No. 0584 - 0075)* - This report is due 120 days after the end of each school year and identifies the State revenues to be counted toward meeting the State revenue matching requirement (7 CFR section 210.17(g)).

Key Line Item - The following line item contains critical information.

Line 5 - *State revenues to be counted toward the State Revenue Matching Requirements*

- f. *Subrecipient Financial Reporting* - A State agency may require SFAs, institutions, and sponsors under its oversight to report information the State agency needs to prepare the financial reports identified above. Such subrecipient reports should be tested during audits of the subrecipients.

2. Performance Reporting - Not Applicable

3. Special Reporting

a. State Agency Special Reporting

To receive funds for the Child Nutrition Cluster programs, a State agency administering one or more of these programs compiles the data gathered on its subrecipients' claims for reimbursement into monthly reports to its FNS regional office. Such reports present the number of meals served, by category and type, by schools or sponsors under the State agency's oversight during the report period.

An initial monthly report, which may contain estimated participation figures, is due 30 days after the close of the report month. A final report containing only actual participation data is due 90 days after the close of the report month. A final close-out report is also required, in accordance with the FNS close out-schedule. Revisions to the data presented in a 90 day report must be submitted by the last day of the quarter in which they are identified. However, the State agency must immediately submit an amended report if, at any time following the submission of the 90 day report, identified changes to the data cause the State agency's level of funding to change by more than (plus or minus) 0.5 percent. The specific reports for each program are described below.

- (1) FNS-10, *Report of School Program Operations (OMB No. 0584-0002)* - This report captures meals served under the NSLP and

SBP, and half-pints of milk served under the SMP (7 CFR sections 210.5(d), 210.8, 215.10, 215.11, 220.11, and 220.13).

Key Line Items - The following line items contain critical information.

- (a) Item 5 - National School Lunch Program:
 - Line 5a - *Total lunches served in the NSLP*
 - Line 5b - *Lunches served in school food authorities that qualify the State for additional payment*
 - Line 5c - *Total afterschool snacks served in all approved schools and sites*
 - Line 5d - *Total afterschool snacks served in area eligible schools and sites*
- (b) Line 6 - *School Breakfast Program (Include schools with severe need)*
- (c) Line 7 - *School Breakfast Program (Severe need only)*
- (d) Line 8 - *Commodity Schools (Lunches only)*
- (e) Item 9 - Special Milk Program
 - Line 9a - *Schools (Include Residential Child Care Institutions)*
 - Line 9b - *Nonresidential Child Care Institutions*
 - Line 9c - *Summer Camps*
- (f) Item 10 - No. of Meals Served in Private Schools Only
 - Line 10a - *National School Lunch Program*
 - Line 10b - *Afterschool snacks*
 - Line 10c - *Afterschool snacks served in area eligible schools and sites*
 - Line 10d - *School Breakfast Program (Include Severe Need)*
 - Line 10e - *Severe Need School Breakfast Program*

- (g) Item 11- No. of Meals Served in Residential Child Care Institutions (RCCIs) Only
- Line 11a - *National School Lunch Program*
 - Line 11b - *NSLP - Snacks*
 - Line 11c - *School Breakfast Program (Include Severe Need)*
 - Line 11d - *Severe Need School Breakfast Program*

- (2) FNS-418, *Report of the Summer Food Service Program for Children (OMB No. 0584-0280)* - This report documents the number of meals served under the SFSPC by sponsors under the State agency's oversight. Unlike the FNS-10 and FNS-44 (Report of the Child and Adult Care Food Program), which are generally submitted year round, the FNS-418 is filed only for the months when the program is in operation (7 CFR sections 225.8(b) and 225.9(d)(5)).

Key Line Items - The following line items contain critical information.

Part A - Meals Served

- (a) Lines 5 through 7 - *Breakfasts*
- (b) Lines 8 through 10 - *Lunches*
- (c) Lines 11 through 13 - *Suppers*
- (d) Lines 14 through 16 - *Supplements*
- (e) Lines 17 through 19 - *Total*

b. Subrecipient Special Reporting

To receive reimbursement payments for meals (and milk under the SMP) served, a SFA, institution, or sponsor must submit claims for reimbursement to its administering agency (7 CFR sections 210.8(b), 225.9(d), and 225.15(c)(2)). The claiming process is as follows.

- (1) Claiming - General Process

At a minimum, a claim must include the number of reimbursable meals/milk served by category and type during the period

(generally a month) covered by the claim. All meals claimed for reimbursement must be of types authorized by the SFA's, institution's, or sponsor's administering agency; must be served to eligible children; and must be supported by accurate meal counts and records indicating the number of meals served by category and type (7 CFR sections 210.7(c), 210.8(c), and 225.9(d)).

- (a) *School Nutrition Programs* - The following types of service may be authorized for schools participating in these programs: breakfast, lunch, supplement (if the school operates an after-school care program), and milk (under the SMP). A school may be approved for the SMP only if it: (i) does not operate any other Federal Child Nutrition meal service programs; or (ii) operates the NSLP and/or SBP, but makes milk available to children in half-day pre-kindergarten or kindergarten programs who do not have access to the NSLP and SBP. All claims must be supported by accurate meal counts by category and type taken at the point of service or developed through an approved alternative procedure (7 CFR sections 210.7, 210.8, 215.8, 215.10, 220.9, and 220.11).
- (b) *SFSPC* - The meals that may be claimed under the program are: breakfast, lunch, supper, and supplement. Food service sites other than camps and sites which primarily serve migrant children may claim either: one meal each day (a breakfast, a lunch, or a supplement), or two meals each day if one is a lunch or supper and the other is a breakfast or a supplement. Camps or sites which serve meals primarily to migrant children may serve three meals or two meals and one supplement. Sponsors must also report their operating and administrative costs; these are covered in III.A. (Activities Allowed or Unallowed), above (7 CFR sections 225.9(d), 225.15(c), and 225.16 (b)).

(2) Claiming - Exceptions

As noted above in III.E.1.2 (Eligibility for Free or Reduced Price Meals or Free Milk), schools operating the School Nutrition Programs under Special Assistance Certification and Reimbursement Alternative Provisions 2 and 3 may use alternative counting and claiming procedures. Under either provision, the schools must serve meals at no charge to all children regardless of income eligibility for program benefits; and the SFA pays from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under the NSLA and CNA (42 USC 1759a(a)(1)).

- (a) *Provision 2* - Provision 2 has a four year cycle for annual notification and certification for free and reduced price meals. In the first year, schools must take daily counts of the number of meals served by meal category (paid, free, reduced price) and establish the percentage of meals served by category each month. In the second, third and fourth school years, schools must count only the total number of reimbursable meals served each month; the monthly percentages established in the first year are then applied to the counts taken in the corresponding months of the current year. At the end of four years, the cycle may be extended for another four years if the State determines that the economic condition of the school's enrollment has not improved. Additional four-year extensions may be approved on the same basis (USC 1759a(a)(1)(C) and (D); 7 CFR section 245.9(b)).
- (b) *Provision 3* - Provision 3 has a four year cycle. Cash reimbursement and commodity assistance are provided at the same level as the school received in the last year free and reduced price applications were taken and daily meal counts by category and type were made, adjusted for inflation and enrollment. Schools opting for this alternative are not required to make annual free and reduced price eligibility determinations. Free and reduced price eligibility determinations and daily meal counts by income category are only required during a base year which is not included as part of the four year cycle. Provisions exist for authorizing subsequent four-year extensions if the economic condition of the school's enrollment has not improved (42 USC 1759a(a)(1)(E)).

M Subrecipient Monitoring

State agencies administering the programs included in the Child Nutrition Cluster are required to perform specific monitoring procedures in accordance with 7 CFR sections 210.18 and 210.19(a)(4) (SBP and NSLP), 7 CFR section 215.11 (SMP), and 7 CFR section 225.7 (SFSPC).

N. Special Tests and Provisions

1. Verification of Free and Reduced Price Applications (NSLP)

Compliance Requirement - By December 15th of each school year, the SFA (or State in certain cases) must verify the current free and reduced price eligibility of households selected from a sample of applications that it has approved for free and reduced price meals, unless the SFA is otherwise exempt from the verification requirement. The

verification sample size is based on the total number of approved applications on file on October 31st (7 CFR section 245.6a(a)).

A State agency may, with FNS approval, assume from SFAs under its jurisdiction the responsibility for performing the verifications. If the SFA performs the verification function it must be in accordance with instructions provided by the State agency. The SFA must follow-up on children determined ineligible for free and reduced price meals and change the category of such children determined ineligible.

SFAs (or State agencies) must select the sample by:

- a. Random sampling (the lesser of three percent or 3000 of the approved applications on file, all randomly selected) or
- b. Focused sampling, in which the SFA must verify a sample that is, at a minimum, the sum of:
 - (1) The lesser of one percent or 1000 of the total number of approved applications (both income and categorical) selected from households claiming income within \$100 monthly or \$1200 annually of the income eligibility guidelines for free and reduced price meals; and
 - (2) The lesser of .5 percent or 500 of the total number of applications that were approved based on categorical eligibility, selected from applications with a Food Stamp Program, FDPIR, or TANF case number.

Sources of information for verification include written evidence, collateral contacts, and systems of records, as described in 7 CFR section 245.6a(b).

Audit Objective - Determine whether the SFA (or State) selected and verified the required sample of approved free and reduced price applications and made the appropriate changes to eligibility status.

Suggested Audit Procedures

- a. Obtain the current family size and income guidelines published by FNS.
- b. Through examination of documentation, ascertain that:
 - (1) The sampling and verification of free and reduced price applications were performed, as required.
 - (2) Changes were made to eligibility status based on documentation and other information obtained through the verification process.

2. Accountability for Commodities

Compliance Requirement - Accurate and complete records shall be maintained with respect to the receipt, distribution/use, and inventory of donated foods including end products processed from donated foods. Failure to maintain records required by 7 CFR section 250.16 shall be considered prima facie evidence of improper distribution or loss of donated foods, and the agency, processor, or entity is liable for the value of the food or replacement of the food in kind (7 CFR sections 250.16(a)(6) and 250.15(c)). Distributing and recipient agencies shall take a physical inventory of all storage facilities. Such inventory shall be reconciled annually with the storage facility's inventory records and maintained on file by the agency which contracted with or maintained the storage facility. Corrective action shall be taken immediately on all deficiencies and inventory discrepancies and the results of the corrective action forwarded to the distributing agency (7 CFR section 250.14(e)).

Exception: Single Inventory Recordkeeping System - In July 2001, FNS provided States with the option of adopting a single inventory recordkeeping system that combines purchased food and commodities donated for the School Nutrition Programs into one system. This provision was made to accommodate conditions created by USDA's decision to purchase and distribute commodities in commercial labels rather than USDA labels. Since commodities would be visually indistinguishable from purchased food, maintaining separate inventories for the two classes in order to facilitate compliance with the foregoing requirements would be difficult. Therefore, FNS has granted States a waiver from these requirements. States that adopt the single inventory system, and SFAs under their oversight, are instructed to apply the same recordkeeping and inventory requirements to donated commodities that they use to safeguard foods purchased with School Nutrition Program reimbursement payments.

More information on commercial labeling and the related regulatory waiver is available on FNS's Food Distribution web site at www.fns.usda.gov/fdd/MENU/fd2000/udpates/stateupdates.htm. After accessing the site, one should select option 10 (Most Frequently Asked Questions on Commercial Labeling and Inventory Management).

Therefore, auditors making audits of States that have elected to adopt the single inventory recordkeeping system, and of SFAs under such States' oversight, are not required to test compliance with this compliance requirement.

Audit Objective - Determine whether an appropriate accounting was maintained for donated food commodities, that an annual physical inventory was taken, and the physical inventory was reconciled with inventory records.

Suggested Audit Procedures

- a. Determine storage facility, processing, and end use locations of all donated food commodities, including end products processed from donated foods. Determine the commodity records maintained by the entity and obtain a copy of procedures

- for conducting the required annual physical inventory. Obtain a copy of the annual physical inventory results.
- b. Perform analytical procedures, obtain explanation and documentation for unusual or unexpected results. Consider the following:
- (1) Compare receipts, usage/distribution, losses and ending inventory of donated foods for the audit period to the previous period.
 - (2) If auditing at the distributing agency level, compare distribution by entity for the audit period to the previous period.
 - (3) If auditing at the recipient agency level, compare relationship of usage of donated foods to production, meals served, or similar activity reports for the audit period to the same relationship for the previous period.
- c. Ascertain the validity of the required annual physical inventory. Consider performing the following steps, as appropriate:
- (1) Observe the annual inventory process at selected locations and recount a sample of commodity items.
 - (2) If the annual inventory process is not observed, select a sample of significant commodities on hand as of the physical inventory date and, using the commodity records, "roll forward" the balance on hand to the current balance observed.
 - (3) On a test basis, recompute physical inventory sheets and related summarizations.
 - (4) Ascertain that the annual physical inventory was reconciled to commodity records. Investigate any large adjustments between the physical inventory and the commodity records.
- d. On a sample basis, test the mathematical accuracy of the commodity records and related summarizations. From the commodity records, vouch a sample of receipts, usage/distributions, and losses to supporting documentation. Ascertain that activity is properly recorded, including correct quantity, proper period and, if applicable, correct recipient agency.

3. School Food Accounts

Compliance Requirement - A SFA is required to account for all revenues and expenditures of its non-profit school food service in accordance with State requirements. A SFA must operate its food services on a non-profit basis; all revenue generated by the school food service must be used to operate and improve its food services (7 CFR sections 210.14 (a), 210.14 (c), 210.19 (a)(2), 215.7(d)(1), 220.2(o-2), and 220.7(e)(1)(i)).

Audit Objective - Determine whether a separate accounting is made of the school food service, Federal reimbursement payments are promptly credited to the school food service account, and transfers out of the school food service account are for the benefit of the school food service.

Suggested Audit Procedures

- a. Review the school food service accounting records and ascertain if a separate accounting is made for the school food service.
- b. Test Federal reimbursement payments received monthly from the administering agency to ascertain if promptly credited to the food service account.
- c. Test transfers out of the school food service account and ascertain if the transfers were for the benefit of the school food service.

UNITED STATES DEPARTMENT OF AGRICULTURE**CFDA 10.557 SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR
WOMEN, INFANTS, AND CHILDREN (WIC)****I. PROGRAM OBJECTIVES**

The objective of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is to provide supplemental nutritious foods, nutrition education, and referrals to health care for low-income persons during critical periods of growth and development. Such persons include pregnant women, breast-feeding women up to one year postpartum, non-breast-feeding women up to six months postpartum, infants (persons under one year of age), and children under age five determined to be at nutritional risk. Intervention during the prenatal period improves fetal development and reduces the incidence of low birth weight, short gestation, and anemia.

II. PROGRAM PROCEDURES**Administration**

The U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) administers the WIC Program through grants awarded to State health departments or comparable State agencies, Indian tribal governments, bands or intertribal councils, or groups recognized by the Bureau of Indian Affairs, U.S. Department of the Interior, or the Indian Health Service (IHS) of the U.S. Department of Health and Human Services (HHS). A State administering the WIC Program must sign a Federal/State Agreement that commits it to observe applicable laws and regulations in carrying out the program. The State agencies, in turn, award subgrants to local agencies to certify applicants' eligibility for WIC Program benefits and deliver such benefits to eligible persons.

Program Funding

The WIC Program is a grant program that is 100 percent federally-funded (7 CFR sections 246.16(a), (b), and (c)). No State matching requirement exists. Funds are awarded by FNS on the basis of funding formulas prescribed in the WIC Program regulations.

FNS allocates Federally-appropriated funds to WIC State agencies as grants which are divided into two parts: a component for food costs and a component for Nutrition Services and Administration (NSA) costs. Resources made available to a State agency under these two components of its initial Federal WIC formula grant may be modified by the cumulative effect of the following requirements:

Reallocations and Recoveries

The WIC Program's authorizing statute and regulations require FNS to recover unspent funds and reallocate them to State agencies.

Conversion Authority

A State agency that submits a plan to increase WIC participation under a cost containment strategy, as outlined under the "Cost Containment Requirements" section below, in excess of the increases projected by FNS in the NSA funds allocation formula, may shift a portion of its food grant component to its NSA component. This "conversion authority" is a function of the "excess" participation increase and is determined by FNS (See section III.A.2, below).

Spending Options

Federal legislation and regulations authorize a State agency to shift a portion of its Federal WIC formula grant between grant periods (Federal fiscal years) (See section III.H, below).

Rebates

A State agency may contract with a food manufacturer to receive a rebate on each unit of the manufacturer's product purchased with Food Instruments (FIs) redeemed by program participants. Such rebates are credits against prior expenditures made during the month in which the rebate was earned for WIC food costs (See section III.B, below).

Vendor and Participant Collections

A State agency is authorized to retain Federal program funds recovered through claims action against vendors and participants and to use such recoveries for program purposes. Like rebates, post-payment vendor and participant collections are credits against prior expenditures for WIC food costs. However, the State agency may credit up to 100 percent of its vendor and participant collections for NSA costs. This authority is in addition to the conversion authority related to cost containment initiatives outlined above (See section III.B, below).

Program Income

Certain miscellaneous receipts a State agency collects as the result of WIC Program operations are classified as program income (See section III.J, below).

State Funding

Although the Federal Financial Participation (FFP) for WIC is 100 percent, some States voluntarily appropriate funds from their own revenues to extend WIC services beyond the level that could be supported by Federal funding alone.

Certification

Applicants for WIC Program benefits are screened at WIC clinic sites to determine whether they meet the eligibility criteria in the following categories: categorical, residency, income, and nutritional risk (See section III.E.1, below).

Benefits

The WIC Program provides participants with specific nutritious supplemental foods, nutrition education, and health services referrals at no cost. The authorized supplemental foods are prescribed from standard food packages according to the category and nutritional need of the participant. The seven food packages available are described in detail in WIC Program regulations.

About 75 percent of the WIC Program's annual appropriation is used to provide WIC participants with monthly food package benefits. The remainder is used to provide additional services to participants and to manage the program. Additional services provided to WIC participants include nutrition education, breast-feeding promotion and support activities, and client services, such as diet and health assessments, referral services for other health care and social services, and coordination activities.

Food Benefit Delivery

Supplemental foods are provided to participants in any one of the following three ways (7 CFR section 246.12(b)):

Direct Distribution Food Delivery Systems (used in Mississippi and in parts of Illinois, Idaho, West Virginia, and the Acoma-Canoncito-Laguna Hospital Board of New Mexico)

The State agency and/or its agent purchases supplemental foods in bulk and issues them to participants at designated distribution facilities.

Home Food Delivery Systems (used in Vermont and in parts of Montana, North Dakota, Texas, and Utah)

Arrangements with home food delivery contractors provide for the delivery of supplemental foods directly to participants' homes.

Retail Food Delivery System (used by most State agencies)

Negotiable FIs are issued directly to individual participants, who exchange them for authorized supplemental foods at retail stores approved as vendors by the State agency. Two types of systems are used to redeem the FIs: voucher systems and check systems. In a voucher system, the vendor submits the FIs directly to the State agency for payment; in a check system, vendors deposit FIs to their bank accounts and the State reimburses them through their banks. Generally, a participant must use an FI within 30 days of the first date of use printed on the FI; and the vendor must submit the FI for payment within 90 days of that date.

Each FI issued to a participant must have a unique serial number. A State agency is required to determine the ultimate disposition of all FIs by serial number within 150 days of the first valid date for participant use. The State agency must adjust previously reported obligations for WIC food costs in order to account for actual FI redemptions and other changes in the status of FIs.

Cost Containment Requirements

In an effort to use their food funding more efficiently, all WIC State agencies in the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and most Indian Tribal State agencies have implemented cost containment measures. Reducing the average food cost per person enables WIC to reach more participants with a given amount of funds. The most successful strategy has been the negotiation of competitive rebate contracts between State agencies and infant formula companies. Such contracts provide for the State agency to receive rebates on infant formula used in the program. Other cost containment measures used by State agencies include competitive bidding, home delivery, and direct distribution.

Federal Oversight and Compliance Mechanisms

FNS oversees State operations through an organization consisting of headquarters and seven regional offices. Federal program oversight encompasses review of 11 functional areas of the program, including vendor management, management information systems, funds management, certification and eligibility, nutrition services, and food delivery/food instrument accountability. Each year FNS regional offices evaluate one or more of these areas or other related areas in those States that they determine are in most need of review.

Although FNS uses technical assistance extensively to promote improvements in State operation of the WIC Program, enforcement mechanisms are also present. The misuse of funds through State or local agency negligence or fraud may result in the assessment of a claim (7 CFR section 246.23(a)). Claims may be established for funds lost due to food instrument theft or embezzlements or for unreconciled FIs (7 CFR sections 246.23(a)(2) and (4)). FNS has other mechanisms to recover other losses and the cost of negligence. For other forms of noncompliance, FNS has the authority to give notice and, if improvements do not occur, withhold administrative funds for failure to implement program requirements (7 CFR section 246.19(a)(2)).

FNS has identified the following circumstances that may indicate noncompliance with WIC Program requirements: (1) redeemed FIs which the issuing local agencies had reported as voided or unclaimed; (2) a large number of consecutively numbered, unreconciled FIs issued by the same local agency; (3) redeemed FIs that appear to have been validly issued but fail to match issuance records; and, (4) participants that transacted all of their FIs on the same day as they were issued.

Source of Governing Requirements

The WIC Program is authorized by section 17 of the Child Nutrition Act of 1966 (42 USC 1786). Program regulations are found at 7 CFR part 246.

Availability of Additional Program Information

For additional information, contact the applicable FNS regional office. Regional office telephone and datafax numbers, and the States each regional office serves may be found on FNS's Website (www.fns.usda.gov/wic).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. General Rule

- a. Funds allocated to a State agency **for food** must be expended to purchase supplemental foods for participants or to redeem FIs issued for that purpose. When supplemental foods are provided to participants via direct distribution, the related warehouse facilities costs shall be allowable food costs. Food funds can also be used to purchase breast pumps for participants (7 CFR section 246.14(a) and (b)).
- b. Funds allocated **for NSA** must be used for the costs incurred by the State or local agency to provide participants with nutrition education, breast-feeding promotion and support, and referrals to other social and medical service providers; and to conduct participant certification, caseload management, food benefit delivery, vendor management, voter registration and program management (42 USC 1786(h)(1)(C)(ii); 7 CFR sections 246.14(c) and (d)).

2. Exceptions

- a. Funds allocated for food costs may be converted (be applied to NSA costs): (1) as a result of a State's plan to exceed participation levels projected by the Federal funding formula; or (2) after recovery as vendor or participant collections. Conversion due to planned participation increases is allowed only if such increases are expected to result from an approved cost containment plan (7 CFR sections 246.14(e) and 246.16(f)).
- b. Funds allocated for NSA costs but not needed for such costs may be applied to food costs (7 CFR section 246.14(a)(2)).

3. Distinguishing WIC From Non-WIC Services

Under no circumstances may the WIC NSA grant component be charged for costs that are demonstrably outside the scope of the WIC Program. WIC services may include: (a) some screening (excluding laboratory tests); (b) referrals for other medical/social services, such as immunizations, prenatal (before birth) care, perinatal care (near the time of birth from the 28th week of pregnancy through 28 days following birth), and well child care and/or family planning; and (c) follow-up on participants referred for such services. However, the cost of the services performed by other health care or social service providers to which the participant has been referred shall not be charged to the WIC grant. For example, the cost to screen, refer, and follow-up on immunizations for WIC participants may be

charged to the WIC grant; but, the cost to administer the shot, or to purchase the vaccine or vaccine-related equipment, may not be charged to the WIC grant.

A hematological test for anemia, such as a hemoglobin, hematocrit, or free erythrocyte protoporphyrin test, is the only laboratory test required to determine a person's eligibility for WIC (7 CFR 246.7(e)(1)). Accordingly, the cost of hematological tests for anemia is the only laboratory cost that may be charged to a WIC grant.

B. Allowable Costs/Cost Principles

1. Applicable Credits

The following items are credits against current vendor billings or prior expenditures:

- a. *Rebates.* Rebates are credits against prior expenditures for food costs, made during the month in which the rebate was earned.
- b. *Vendor Collections.* Post-payment vendor collections are funds collected through claims assessed against food vendors for errors and overcharges; they are credits against prior expenditures. Pre-payment vendor collections are improper payments prevented as a result of reviews of food instruments prior to payment; they are credits against vendor billings.
- c. *Participant Collections.* These are recoveries of improperly issued food benefits as the result of a participant, guardian or caretaker intentionally making a false or misleading statement or withholding information.

A State agency must recognize, use, and account for these items in accordance with program regulations. At its discretion, the State agency may credit vendor and participant collections against expenditures for food and/or NSA costs. The State agency may apply vendor and participant collections to food and/or NSA expenditures of: (a) the fiscal year in which the FI resulting in the collection was issued; (b) the fiscal year in which the claim arose; (c) the fiscal year in which the collection is received; or (d) the fiscal year following the fiscal year in which the collection is received (42 USC 1786(f)(21); 7 CFR section 246.14(e)).

2. Capital Expenditures

FNS has authorized WIC State and local agencies to charge the full acquisition cost of non-computer equipment costing less than \$25,000 per unit without obtaining prior FNS approval, and to allow local agencies under their oversight to do likewise. FNS regional offices retain the discretion to apply a lower dollar threshold to an individual State agency and to the local agencies under its oversight, provided certain requirements apply and the State agency receives written notice.

Automated Data Processing Projects

FNS authorizes WIC State agencies to make automated data processing (ADP) acquisitions with a total project cost of up to \$24,999 without prior FNS approval. Instead, WIC State agencies must notify the FNS Regional Office in writing of such purchases within 60 days of the expenditure or contract execution. ADP acquisitions with a total project cost of \$25,000 to \$499,999 require a written request for prior approval from the FNS Regional Office, including an explanation of the purchase(s), description of needs, and other information appropriate to the proposed acquisition (cost allocation, procurement documents, etc, as appropriate).

WIC State agencies are required to submit an Advanced Planning Document (APD) to request prior approval of automation acquisitions with a total project cost of \$500,000 or more. Prior approval from FNS is required for such costs to be allowable charges to the WIC grant.

Purchases of other capital assets, such as buildings, land and improvements to buildings or land that materially increase their value or useful life, costing more than \$5000, continue to require prior approval from FNS (7 CFR section 3016.22).

C. Cash Management

The WIC Program is subject to the provisions of the CMIA. However, rebates held in State accounts are exempt from the interest provisions of the CMIA (42 USC 1786(h)(8)(J); 7 CFR section 246.15(a)).

E. Eligibility

1. Eligibility for Individuals

Applicants for WIC Program benefits are screened at WIC clinic sites to determine their WIC eligibility. Except in limited circumstances, WIC applicants must be physically present for such screenings. To be certified eligible, WIC applicants must meet the following eligibility criteria (7 CFR sections 246.7(c), (d), (e), and (g)).

- a. *Categorical* - Eligibility is restricted to pregnant, postpartum, and breast-feeding women, infants, and children up to their fifth birthday (7 CFR sections 246.2 (definition of each category) and 246.7(c)).
- b. *Residency* - An applicant must meet the State agency's residency requirement. Except in the case of Indian State agencies, the applicant must reside in the jurisdiction of the State. Indian State agencies may require applicants to reside within their jurisdiction. All State agencies may designate service areas for any local agency, and may require that

applicants reside within the service area. A State agency must establish procedures, in accordance with guidance from FNS, to prevent the same individual from receiving duplicate benefits through participation at more than one local agency. Except under limited circumstances, WIC applicants must present proof of residency at certification (42 USC 1786(f)(23); 7 CFR section 246.7(c)(1)) and 246.7 (l)(2)).

- c. *Income* - An applicant must meet an income standard established by the State agency or be determined to be automatically (adjunctively) income-eligible based on documentation of his/her eligibility, or certain family members' eligibility, for the following Federal programs: (1) Temporary Assistance for Needy Families (formerly Aid To Families With Dependent Children); (2) Medicaid; or (3) Food Stamps. State agencies may also determine an individual automatically income-eligible, based on documentation of his/her eligibility for certain State-administered programs. With limited exceptions, applicants who are not adjunctively or automatically income eligible for WIC must provide documentation of family income at their initial or subsequent certification (42 USC 1786(d)(3)(D); 7 CFR sections 246.2 (definition of "family"), 246.7(c), and 246.7(d)).

Income Guidelines: The income standard established by the State agency may be up to 185 percent of the poverty income guidelines issued annually by HHS or State or local income guidelines used for free and reduced-price health care. However, in using health care guidelines, the income guidelines for WIC must be between 100 and 185 percent of the poverty income guidelines. Local agency income guidelines may vary as long as they are based on the guidelines used for free and reduced-price health care (7 CFR section 246.7(d)(1)). The WIC income eligibility guidelines are issued each year in the *Federal Register* and are available on FNS's WIC Website (www.fns.usda.gov/wic).

Income Determination: Except for applicants determined automatically income-eligible, income is based on gross income and other cash readily available to the family or economic unit. Certain Federal payments and benefits are excluded from the computation of income. In addition, the State agency may exclude the value of military families' off-base housing allowances but must implement such exclusion uniformly for all military families (7 CFR section 246.7(d)(2)(iv)).

At a minimum, in-stream (away from home base) migrant farm workers and their families with expired Verification of Certification cards shall meet the State agency's income standard provided that the income of the family is determined at least once every 12 months (7 CFR section 246.7(d)(2)(ix)).

An Indian State agency, or a State agency acting on behalf of an Indian local agency, may submit reliable data that proves to FNS that the majority of Indian households in a local agency service area have incomes at or below the State agency's income guidelines. In such cases, FNS may authorize the State agency to permit the use of an abbreviated income screening process whereby an applicant affirms, in writing, that his/her family income is within the State agency's prescribed guidelines (7 CFR section 246.7(d)(2)(viii)).

State agencies may instruct local agencies to consider family income over the preceding 12 months or the family's current rate of income, whichever indicator more accurately reflects the family's income status. However, applicants in which an adult member is unemployed shall have income determined based on the period of unemployment. A State or local agency may require verification of information which it determines necessary to confirm income eligibility (7CFR 246.7(d)(2)(i) and (v)).

- d. *Nutritional Risk* - A competent professional authority (e.g., physician, nutritionist, registered nurse, or other health professional) must determine that the applicant is at nutritional risk. Nutritional risk is defined by each State agency within broad guidelines set forth in WIC legislation and regulation. At a minimum, the certifying agency must perform and/or document measurements of each applicant's height or length and weight. In addition, a hematological test for anemia must be performed or documented at certification if the applicant has no nutritional risk factor prescribed by the State agency other than anemia. Certified applicants with qualifying nutritional risk factors other than anemia must also be tested for anemia within 90 days of the date of certification. Program regulations set several exceptions to these general rules. The determination of nutritional risk may be based on current referral data provided by a competent professional authority who is not on the WIC staff (7 CFR sections 246.2 (definitions of "competent professional authority" and "nutritional risk") and 246.7(e)).

When an applicant meets all eligibility criteria, he/she is determined by WIC clinic staff to be eligible for program benefits. Certification periods are assigned to each participant based on categorical status for women, infants, and children (7 CFR section 246.7(g)).

A WIC local agency assigns each eligible person a priority classification according to the classification system described in 7 CFR section 246.7(e)(4). A person's priority assignment reflects the severity of his/her nutritional risk. If the local agency cannot immediately place the person on the program for lack of an available caseload slot, the person is placed on a waiting list. Caseload vacancies are filled from the waiting list in priority classification order. State agencies are expected to target program

outreach and caseload management efforts toward persons at greatest nutritional risk (i.e., those in the highest priority classifications).

Pregnant women are certified for the duration of their pregnancy and for up to six weeks postpartum. Breast-feeding women may be certified for six-month intervals ending with the breast-fed infant's first birthday. Infants are certified at intervals of approximately six months, except that infants under six months of age may be certified for a period extending up to the child's first birthday, provided the quality and accessibility of health care services are not diminished. Children are certified for six-month intervals ending with the month in which the child reaches the fifth birthday. Non-breast-feeding women are certified for up to six months postpartum.

2. Eligibility of Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility of Subrecipients

A State agency may award WIC subgrants only to organizations meeting the regulatory definition of "local agency." Such organizations include public or private non-profit health agencies, human service agencies that provide health services, IHS health units, and Indian tribal groups described in the WIC program regulations (See definition of "local agency" in 7 CFR section 246.2.).

H. Period of Availability of Federal Funds

1. *Spend-Forward Option* - For WIC formula grant funds awarded for Federal fiscal years 1998 and after, a State agency may spend NSA funds up to an amount equal to one percent of its total WIC formula grant for NSA costs of the following Federal fiscal year. With prior approval from its FNS regional office, the State agency may also spend NSA funds in an amount that does not exceed one-half of one percent of its total WIC formula grant, for management information systems development costs during the following Federal fiscal year. Food funds may no longer be "spent forward" (7 CFR section 246.16(b)(3)(ii).).
2. *Backspend Option* - For WIC formula grant funds awarded for Federal FY 1999 and after, a State agency may:
 - a. Spend up to one percent of the food component of its grant for food costs of the Federal fiscal year preceding the fiscal year for which the grant was awarded; and/or
 - b. Spend up to one percent of its NSA grant component for food and/or NSA costs of the Federal fiscal year preceding the fiscal year for which the grant was awarded (7 CFR section 246.16(b)(3)(i)); 42 USC 1786(i)(3)(A)).

J. Program Income

The State agency may use current year program income for costs incurred in the current fiscal year and, with the approval of FNS, for costs incurred in previous or subsequent fiscal years. Currently, the following are the only funds FNS is aware of that WIC State agencies receive that are classified as program income: (1) royalties from printed publications; (2) nominal fees, not to exceed costs, for reproducing or mailing publications, videotapes, posters, etc.; (3) interest earned on rebate funds for infant formula and other foods; (4) general grants not tied directly to foods purchased, but made for inclusion of food items in a State's food package (such as certain grants from the private sector); and (5) money received by the State agency as a result of civil money penalties or fines assessed against a vendor, and any interest charged in the collection of these penalties and fines. A State agency may use program income for any combination of food and NSA costs or other costs that further the broad objectives of the program (7 CFR section 246.15(b)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. FNS-798, *WIC Financial Management and Participation Report (OMB No. 0584-0045)* - A State agency is required to submit monthly financial and program performance (participation) data (7 CFR section 246.25(b)).

Each WIC State agency uses the FNS-798 to report projected and actual Federal food expenditures and participation for each month of the fiscal year. Participation for any given month equals the number of individuals who received supplemental foods or food instruments during that month plus the number of infants who received no supplemental foods or food instruments, but were breast-fed by participating women during that month.

WIC State agencies also use the FNS-798 to provide the data FNS needs to conduct the annual grant reconciliation and closeout required by 7 CFR part 3016. The FNS-798 presents the status of the report year grant and costs adjusted by the spending options (described under III.H, "Period of Availability of Federal Funds," above), which allow State agencies to shift a small portion of the WIC grant funds between Federal fiscal years. The FNS-798 closeout report is the State's official declaration of the final status of its grant and costs for the report year.

Key Line Items - The following line items contain critical information:

- (1) Line 1 *Adjusted Gross Obligations* - reflects the amount of money, net of all credits used to fund food outlays except rebates, that a State agency estimates it will spend for each month's food orders or FI issuances.
 - (2) Line 2 *Estimated Rebates* - reflects the amount of money that a State agency estimates it will receive for rebates.
 - (3) Line 7 *Rebates Billed* - reflects the dollar value of bills or invoices submitted by the State to food manufacturers, such as infant formula companies, for rebate payments.
 - (4) Line 12 *Net Federal Outlays and Unliquidated Obligations* - reflects the amount of payments, net of rebates billed, program income, post-payment vendor collections, participant collections, and other credits. The State's WIC program food cost ledger account should support this amount.
 - (5) Line 18 *Total Participation* - reflects the actual number of federally-supported participants for elapsed months. The participation counts should be supported by FI issuance records and participant files.
 - (6) Line 26 *Net Federal Outlays and Unliquidated Obligations for NSA Costs* - reflects gross outlays and unliquidated obligations minus program income, post-payment vendor collections, participant collections, and other credits.
- f. FNS-798A, *Addendum to WIC Financial Management and Participation Report - NSA Expenditures (OMB No. 0584-0045)* - State agencies prepare the FNS-798A annually to report: (1) NSA expenditures by function for the fiscal year being closed out; (2) the method by which NSA expenditures were charged as indirect costs; and (3) the method by which the indirect cost amount was determined. FNS uses the amounts reported in nutrition education and breast-feeding promotion and support, two of the four functional categories on the FNS-798A, to determine whether the State agencies met the statutory minimum spending level for those functions.

Key Line Items -

1. The following line items and columns contain critical information for **State-level** activities:

- a. Line 5a *Federal Outlays* - Column (03) - *State-Level Nutrition Education* - represents total outlays and unliquidated obligations made for State-level nutrition education costs supported by Federal grant funds and program income.
 - b. Line 5a *Federal Outlays* - Column (04) - *State-Level Breast-feeding Promotion and Support* - represents total outlays and unliquidated obligations made for State-level breast-feeding promotion and support costs supported by Federal grant funds and program income.
 - c. Line 5b *State Outlays* - Column (03) - *State-Level Nutrition Education* - represents total outlays and unliquidated obligations made for State-level nutrition education costs supported by State-appropriated funds plus the dollar value of any in-kind contributions received from any Federal, State or local funding source.
 - d. Line 5b *State Outlays* - Column (04) - *State-Level Breast-feeding Promotion and Support* - represents total outlays and unliquidated obligations made for State-level breast-feeding promotion and support costs supported by State-appropriated funds plus the dollar value of any in-kind contributions received from any Federal, State or local funding source.
2. The following line items and columns contain critical information for **local-level** activities (Outlays and unliquidated obligations made by local agencies or made by the State agency for local clinics or other units in local communities which directly provide benefits to participants).
- a. Line 5a *Federal Outlays* - Column (07) - *Local-Level Nutrition Education* - represents total outlays and unliquidated obligations made for local-level nutrition education costs supported by Federal grant funds and program income.
 - b. Line 5a *Federal Outlays* - Column (08) - *Local-Level Breast-feeding Promotion and Support* - represents total outlays and unliquidated obligations made for local-level breast-feeding promotion and support costs supported by Federal grant funds and program income.
 - c. Line 5b *State Outlays* - Column (07) - *Local-Level Nutrition Education* - represents total outlays and unliquidated obligations made for local-level nutrition

education costs supported by State-appropriated funds plus the dollar value of any in-kind contributions received from any Federal, State or local funding source.

- d. Line 5b *State Outlays - Column (08) - Local-Level Breast-feeding Promotion and Support* - represents total outlays and unliquidated obligations made for local-level breast-feeding promotion and support costs supported by State-appropriated funds plus the dollar value of any in-kind contributions received from any Federal, State or local funding source.

(Refer to 7 CFR section 246.14(c))

- g. *Subrecipient Reporting* - A State agency may require local agencies under its oversight to report financial information the State agency needs to prepare reports identified above. These reports should be tested during audits of subrecipients.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

M. Subrecipient Monitoring

State agencies must establish an ongoing management evaluation system which includes at least the monitoring of local agency operations, the review of local agency financial and participation reports, the development of corrective action plans, the monitoring of the implementation of corrective action plans, and on-site reviews. The on-site reviews of local agencies shall include evaluation of management, certification, nutrition education, civil rights compliance, accountability, financial management systems, and food delivery systems. These reviews must be conducted on each local agency at least once every two years, including on-site reviews of a minimum of 20 percent of the clinics in each local agency or one clinic, whichever is greater (7 CFR section 246.19(b)).

N. Special Tests and Provisions

1. Food Instrument Disposition

Compliance Requirement - A State agency must account for the disposition of all FIs within 150 days of the FI's first valid date for participant use. The State agency must identify all FIs as either issued or voided; and identify issued FIs as either redeemed or unredeemed. Redeemed FIs must be identified as one of the following: (1) validly issued, (2) lost or stolen, (3) expired, (4) duplicate, or (5) not matching valid enrollment and issuance records. State agencies generally do this by analyzing computer reports that provide detailed issuance and redemption information on each FI (7 CFR section 246.12(q)).

Audit Objective - Determine whether the State agency's FI disposition process complies with the foregoing requirement.

Suggested Audit Procedures

- a. Obtain an understanding of the State agency's process for tracking FIs. At a minimum, this includes ascertaining how the State agency:
 - (1) Identifies the ultimate disposition of every FI; and
 - (2) Follows up on redeemed FIs that cannot be matched with valid issuances (State agencies do this by contacting the issuing local agencies and by other means).
- b. Ascertain whether the State agency provides written guidance to local agencies on how to follow up on issued FIs (redeemed and unredeemed).
- c. Inspect disposition reports to ascertain that the State agency:
 - (1) Reconciled its records to issued FIs on a one-to-one basis within the 150 day time frame set by regulation;
 - (2) Followed-up on redeemed FIs that were not validly issued and validly used, in order to determine their ultimate disposition;
 - (3) Obtained explanations for identified discrepancies; and
 - (4) Adjusted its accounting records and external reports in order to reflect the results of the disposition process.
- d. Using State agency disposition reports for one or more months of the audit period, verify the State agency's non-reconciliation rate for redeemed FIs. The State agency should use the following steps in performing the non-reconciliation rate calculation:
 - (1) Determine total FIs redeemed
 - (2) Determine total redeemed FIs initially identified as unreconciled (listed as redeemed with no record of issuance on exception report)
 - (3) Determine total redeemed FIs finally identified as unreconciled (after follow-up with local agencies/clinics)
 - (4) Calculate the unreconciled rate (#3 divided by #1)
 - (5) Calculate total value of FIs redeemed

(6) Calculate total value of FIs finally identified as unreconciled

UNITED STATES DEPARTMENT OF AGRICULTURE

CFDA 10.558 CHILD AND ADULT CARE FOOD PROGRAM (CACFP)

I. PROGRAM OBJECTIVES

The CACFP assists States, through grants-in-aid and donated foods, to initiate and maintain non-profit food service programs for eligible children and adults in nonresidential day care settings.

II. PROGRAM PROCEDURES

General Overview

The U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) administers the CACFP through grants to States. The program is administered within most States by the State educational agency. In a few States, it is administered by an alternate agency, such as the State department of health or social services. At the discretion of the Governor, different agencies within a State may administer the program's child care and adult day care components. In Virginia, the CACFP is directly administered by the FNS Mid-Atlantic Regional Office (MARO). For purposes of this discussion, State agencies and the MARO are referred to collectively as "administering agencies."

CACFP benefits consist of nutritious meals and snacks served to eligible children and adults who are enrolled for care at participating child care centers, adult day care centers, outside-school-hours care centers, after-school at-risk programs, family and group day care homes, and homeless shelters. These entities are discussed in more detail below. Child and adult day care centers and outside-school-hours care centers (often referred to collectively in this discussion as "centers"), as well as after-school at-risk programs, may operate independently under agreements with their administering agencies, or they may participate under the auspices of sponsoring organizations. Day care homes may participate only through sponsoring organizations. An entity with which an administering agency enters into an agreement for the operation of the CACFP, be it an independent center or a sponsoring organization, is known as an "institution."

A sponsoring organization usually does not provide child care services itself. Rather, it assumes administrative and financial responsibility for CACFP operations in centers and day care homes under its sponsorship. In that capacity, sponsoring organizations generally pass Federal funds received from their administering agencies through to their homes and centers; in some cases, however, sponsoring organizations provide meals to their centers in lieu of cash reimbursement.

Child Care Centers

Eligible child care centers include public, private non-profit, and certain proprietary child care centers, Head Start programs, and other entities which are licensed or approved to provide day care services.

Adult Day Care Centers

Public, private non-profit, and proprietary adult day care facilities which provide structured, comprehensive services to nonresidential adults who are functionally impaired, or aged 60 and older, may participate in CACFP.

Outside-School-Hours Care Centers

Outside-school-hours care centers include public, private non-profit, and certain proprietary organizations, licensed or approved to provide nonresidential child care services to enrolled children outside of school hours.

After-School At-Risk Programs

After-school at-risk programs are structured, supervised programs that: are organized primarily to provide care to at-risk children through age 18 after school hours and on weekends and holidays during the school year; provide educational or enrichment activities; and are located in low income areas. Examples of organizations that typically offer such programs include police athletic leagues, boys and girls' clubs, and the YMCA. In areas where Federal, State or local licensing or approval is not required, operators of these after-school programs are required to comply with State or local health and safety requirements.

Emergency Shelters

Public and private nonprofit emergency shelters which provide residential and food services to homeless families are eligible to participate in CACFP. Eligible shelters may receive reimbursement for serving up to three meals each day to homeless children who reside there.

Day Care Homes

A family or group day care home is a private home licensed or approved to provide day care services. As noted above, the provider of such services must sign an agreement with a sponsoring organization to participate in CACFP; a day care home cannot enter into an agreement directly with the administering agency.

Program Funding

Federal assistance to institutions takes the form of cash reimbursement for meals served, and USDA donated commodities or cash in lieu of commodities. An institution's entitlement to cash reimbursement is generally computed by multiplying the number of meals served, by category and type, by prescribed per-unit payment rates called "reimbursement rates." "Type" refers to the kind of meal service for which the institution seeks reimbursement (breakfast, lunch, supplement, supper). For meals served in centers, "category" refers to the economic need of the child or adult to whom a meal is served; such meals are categorized as paid, reduced price, or free. Meals served in day care homes are categorized by the tiering structure (tier I or II) described in "III.E.1 Eligibility for Individuals" below. Under this formula, an institution's entitlement to funding from its administering agency is a function of the categories and types of services provided. An

institution establishes its entitlement to reimbursement payments by submitting claims for reimbursement to its administering agency.

Independent centers, sponsors of centers, and sponsors of day care homes may be approved to claim reimbursement for up to two reimbursable meals (breakfast, lunch or supper) and one snack, or two snacks and one meal, each day. Operators of after-school at-risk programs may claim reimbursement for one snack per child per day (except that operators of such programs in the States of Delaware, Illinois, Michigan, Missouri, New York, Oregon, and Pennsylvania may also claim supper). Homeless shelters may claim up to three meals served to each residential child each day. The specific types of meals for which an institution may claim reimbursement payments are stated in its agreement with its administering agency.

Sponsoring organizations of family day care homes also receive administrative funds related to the documented costs they incur in planning, organizing, and managing CACFP. They are the only CACFP institutions that may receive such assistance. Sponsoring organizations of centers do not receive separate administrative cost reimbursement parallel to that received by sponsors of family day care homes; nevertheless, program regulations allow them to retain for their administrative costs a portion of the meal reimbursement payments generated by their centers.

In addition to cash assistance, USDA makes donated commodities or cash-in-lieu of commodities available for use by institutions in operating the CACFP (7 CFR section 226.5). FNS enters into agreements with State distributing agencies for the distribution of commodities to CACFP institutions; the distributing agencies, in turn, enter into agreements with the institutions. The distributing agency may be the CACFP administering agency or a separate State agency.

Documentation Requirements

An institution operating the CACFP must have procedures in place to collect and maintain the documentation required at 7 CFR section 226.15(e). Examples of such documentation include: the institution's application and supporting documents submitted to its administering agency; records of enrollment of each CACFP participant; records supporting the free and reduced price eligibility determinations for children and adults enrolled in centers and for providers' children in day care homes; daily records indicating the number of children and adults in attendance and the number of meals served by type and category; copies of receipts, invoices and other records of CACFP costs and income required by the administering agency; copies of claims for reimbursement submitted to the administering agency; and documentation of non-profit operation of food service.

Pricing of Program Meals

Institutions other than sponsoring organizations of family day care homes and after-school at-risk programs may charge a single fee (nonpricing program) to cover tuition, meals, and all other day care services, or they may charge separate fees for meals (pricing program). The institution must describe its pricing policy in a free and reduced price policy statement submitted to its administering agency. All day care homes and the vast majority of centers participate in CACFP as nonpricing programs, since the fees they charge cover all areas of their day care services.

Family day care homes are prohibited from charging separately for meals. Nevertheless, institutions must determine the eligibility of enrolled children or adults for meals served at no charge or at a reduced price because such determinations affect the reimbursement rates for meals served to the participants.

Federal Assistance to States

Program funds are provided to States through letters of credit issued under the FNS Agency Financial Management System. The States, in turn, use the funds to reimburse institutions for costs of CACFP operations, as described above, and to support State administrative expenses.

Funding Program Benefits

FNS provides a cash payment (called a "national average payment") to each State agency for each meal served under the CACFP. A State's entitlement to national average payments is determined by substantially the same performance-based (meals-times-rates) formula used by administering agencies to compute reimbursement payments to institutions. From the State's standpoint, all funds received via this formula are pass-through funds that the State must use for reimbursement payments to institutions under its oversight.

FNS adjusts the national average payment rates on July 1 of each year. National average payments for meals served in centers are adjusted to reflect changes in the *Food Away From Home* series of the Consumer Price Index. Adjustments in national average payments for meals served in day care homes are adjusted on the basis of changes in the *Food at Home* series of the Consumer Price Index.

The State's level of commodity assistance or cash in lieu of commodities is based on the numbers of lunches and suppers served in centers in the preceding year, multiplied by the national average payment for donated foods. Commodity assistance rates are also adjusted every July 1, to reflect changes in the *Food Used in Schools and Institutions* series of the Consumer Price Index.

Funding State-Level Administrative Costs

FNS makes State Administrative Expense (SAE) funds available to State agencies for administrative expenses incurred in supervising and giving technical assistance to institutions participating in CACFP. SAE requirements are prescribed at 7 CFR part 235.

Additional funds are also available to States to help State agencies and institutions comply with Federal audit requirements, and to fund costs associated with performing administrative reviews of institutions after the audit requirements have been met. A State receives such assistance in an amount equal to one and one-half percent of the payments FNS made to the State for CACFP program reimbursement to institutions during the second fiscal year preceding the year for which the funds are to be made available (42 USC 1766(i)).

Source of Governing Requirements

The CACFP is authorized at section 17 of the Richard B. Russell National School Lunch Act (NSLA) (42 USC 1766), as amended. The program regulations are codified at 7 CFR part 226.

Availability of Program Information

Additional program information is available from the FNS site on the Internet at www.fns.usda.gov/cnd/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Reimbursement for Operating Costs of Child and Adult Care Centers* - The administering agency determines whether centers and sponsors of centers under its oversight shall be reimbursed solely according to the meals-times-rates formula outlined in "Program Procedures," above, or at the lesser of meals-times-rates or actual, documented costs. Costs claimed by the institution as operating costs must be related to preparing and serving meals to children and/or adults under the CACFP (7 CFR section 226.11(c) and definition of "Operating costs" in section 226.2).
2. *Reimbursement for Sponsoring Organizations' Administrative Costs* - Administrative costs are costs related to planning, organizing, and managing a food service under the CACFP (7 CFR section 226.2).
 - a. *Sponsoring Organizations of Centers* - There is no provision for sponsoring organizations of centers to receive reimbursement for administrative costs. However, a sponsor may retain a portion of a center's meal reimbursement for its own administrative expenses (42 USC 1766(f)(2)(C)). The method to determine the portion a sponsoring organization may retain is described in III.G.3 (Earmarking).
 - b. *Sponsoring Organizations of Family Day Care Homes* - In addition to their meal reimbursement payments, sponsoring organizations of family day care homes may receive reimbursement for their administrative costs (7 CFR section 226.12). The formula a State agency must use to determine a sponsoring organization's entitlement to administrative payments is also described in III.G.3 (Earmarking).

3. *Use of Reimbursements* - Reimbursement payments shall be used solely for the conduct of the food service operation or to improve such food service operations, principally for the benefit of the enrolled participants (7 CFR section 226.15(e)(14)).

C. Cash Management

A sponsoring organization must disburse advance and meal reimbursement payments to centers and day care homes under its sponsorship within five working days of receiving them from its administering agency (7 CFR sections 226.16(g) and (h)).

E. Eligibility

1. Eligibility for Individuals

a. General Eligibility

Any individual meeting the definition of "children" or "adult participant" at 7 CFR section 226.2, and who is enrolled in a participating nonresidential institution (or, with respect to children, an emergency shelter), may receive meals under the CACFP. These definitions are:

- (1) *Children* means (a) persons 12 years of age and under; (b) children of migrant workers 15 years of age and under; (c) persons through age 18 and enrolled in after-school at-risk programs (except that children who turn 19 during the school year remain eligible for the duration of the school year; and (d) mentally or physically handicapped persons, as defined by the State, enrolled in an institution or a child care facility serving a majority of persons 18 years of age and under (42 USC 1766(r) and (t)(5)(A); definitions of "Children" and "Enrolled child" at 7 CFR section 226.2).
- (2) *Adult participant* means "a person enrolled in an adult day care center who is functionally impaired ... or 60 years of age or older" (Definitions of "Adult participant" and "Enrolled participant" at 7 CFR section 226.2).

b. Eligibility for Free or Reduced Price Meals

- (1) *Children and Adults Enrolled in Centers* - While an independent center or sponsoring organization of centers receives Federal cash reimbursement for all meals served in centers, it receives higher levels of reimbursement for meals served to children and adults who meet Income Eligibility Criteria published by FNS for meals served free or at reduced price. Participants from households with incomes at or below 130 percent of poverty are eligible for free meals; and participants with household incomes between 130

percent and 185 percent of poverty are eligible for reduced price meals. The Income Eligibility Guidelines and Reimbursement Rates are published in the *Federal Register* and on the Internet at www.fns.usda.gov/cnd. Institutions must determine each enrolled participant's eligibility for free and reduced price meals in order to claim reimbursement for the meals served to that individual at the correct rate (7 CFR sections 226.17(b)(7), 226.19(b)(8)(i), and 226.19a(b)(8)).

A participant's eligibility may be established by the following methods:

- (a) *General Rule: Household Application* - The participant's household may submit an income eligibility statement that provides information about household size and income. The information submitted by each household is compared with USDA's published Income Eligibility Guidelines. A household is not required to furnish documentation to support the information given in its income eligibility statement; however, that information is subject to verification under 7 CFR 226.23(h)(7 CFR sections 226.23(e)(1)(ii) and (iii), and 226.23(e)(4)).
 - (b) *Exception: Categorical Eligibility* - Children and adults may be determined categorically eligible for free and reduced price meals by virtue of their participation in certain other programs. For children, such programs include the Food Stamp Program, Food Distribution Program on Indian Reservations (FDPIR), or State programs funded through Temporary Assistance for Needy Families (TANF). Categorically eligible adults include those who receive Food Stamp Program, FDPIR, Supplemental Security Income (SSI), or Medicaid benefits. Categorically eligible participants must indicate on the income eligibility statement the other program for which they are eligible. No income eligibility statement is required for children participating in the Head Start Program or for pre-kindergarten children participating in the Even Start Programs, nor is any eligibility determination required beyond documenting their participation in Head Start or Even Start (7 CFR section 226.23 (e)(1)(iv) and (v); 42 USC 1766(c)(6)).
- (2) *Children Enrolled in Family Day Care Homes* - A tiering structure prescribed by program statute and regulations forms the basis for meal reimbursement payments to sponsoring organizations of day

care homes. A home is classified as tier I or tier II, depending on the home's location or the provider's income eligibility.

Tier I day care homes are those operated by providers whose households meet the income standards for free or reduced price meals, as outlined above; or those located in low-income areas. A low-income area is one where at least 50 percent of the children are eligible for free or reduced price school meals. Sponsoring organizations may use census block data or elementary school enrollment data to determine low-income areas (7 CFR sections 226.2 (definitions of "Low-income area" and "Tier I day care home") and 226.15 (e)(3) and (f)).

Tier II homes are those family day care homes which do not meet the location or provider income criteria for a tier I home. Per-meal reimbursement rates for meals served in tier II homes are lower than corresponding rates for tier I homes. The provider in a tier II home may nevertheless elect to have the sponsoring organization identify income-eligible children, so that meals served to those children who qualify for free and reduced price meals would be reimbursed at the higher tier I rate (7 CFR section 226.23(e)(1)(i)).

Meals served to a day care home provider's own children are not reimbursable unless all of the following conditions are met: (1) such children are enrolled and participating in the CACFP during the time of the meal service; (2) enrolled, nonresidential children are present and participating in the CACFP; and (3) the provider's own children are eligible for free or reduced price meals (7 CFR section 226.18(e)).

- (3) *Children Enrolled in After-School At-Risk Programs* - Eligible after-school programs must be located in geographical areas where 50 percent or more of the children are eligible for free or reduced price meals under the School Nutrition Programs (CFDA Nos. 10.553 and 10.555), as demonstrated by the free and reduced price eligibility data maintained by the school serving the area. Individual eligibility determinations for children attending these programs are not required (42 USC 1766(r)).
- (4) *Children Enrolled in Emergency Shelters* - Children enrolled in emergency shelters receive meals at no charge (42 USC 1766(t)(5)(C)).

2. Eligibility of Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

- a. Administering agencies may disburse CACFP funds only to those organizations that meet the eligibility requirements stated in the following program requirements: (1) generic requirements for all institutions at 7 CFR section 226.15 and 42 USC 1766(a)(6) and (d)(1); (2) additional requirements for sponsoring organizations at 7 CFR section 226.16; (3) additional requirements for child care centers (whether independent or sponsored) at 7 CFR section 226.17; (4) additional requirements for day care homes (which must be sponsored) at 7 CFR section 226.18; (5) additional requirements for outside-school-hours centers at 7 CFR section 226.19; (6) additional requirements for adult day care centers (whether independent or sponsored) at 7 CFR section 226.19a; (7) additional requirements for after-school at-risk programs at 42 USC 1766(r); and (8) additional requirements for emergency shelters at 42 USC 1766(t).
- b. Proprietary child care and outside-school-hours centers may participate in the CACFP if they meet either of the following two criteria: (1) at least 25 percent of the enrolled children or 25 percent of the licensed capacity, whichever is less, are funded under Title XX of the Social Security Act; or (2) the centers are located in Iowa, Kentucky, or (after September 30, 2001) Delaware and at least 25 percent of the children in their care are eligible for free or reduced price meals. For the period December 21, 2000 through September 30, 2002, the second criterion is available to all States (Consolidated Appropriations Act 2001, Section 102 of Division B of H.R. 5666 of the 106th Congress as incorporated by Section 1(a)(4) of Pub. L. No. 106-554; Section 743 of Pub. L. No. 107-76, 114 Stat. 738; 42 USC 1766(p)(1)).
- c. Proprietary adult day care centers may be eligible for CACFP if at least 25 percent of their participants receive benefits under Title XIX or Title XX of the Social Security Act (7 CFR section 226.2 (definitions of "Proprietary Title XIX center" and "Proprietary Title XX center")).

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2. Level of Effort - Not Applicable

3. Earmarking

- a. *Sponsoring Organizations of Day Care Homes* - Administrative cost reimbursement to sponsoring organizations of day care homes is limited to the lesser of the following factors on a cumulative year-to-date basis: (a) the sponsoring organization's approved administrative budget; (b) actual administrative costs less income to the program; or (c) the appropriate

monthly rates per home, multiplied by the number of operating homes in each month. In addition, during any fiscal year, administrative payments to a sponsoring organization may not exceed 30 percent of the total amount of administrative payments and program (meal reimbursement) payments for day care home operations (7 CFR section 226.12(a))

- b. *Sponsoring Organizations of Centers* - There is no provision for sponsoring organizations of centers to receive a separate reimbursement for administrative costs. However, sponsors may retain up to 15 percent from a center's reimbursement for its administrative expenses. State agencies may waive this limit if the sponsor meets State criteria for a higher percentage of funds retention (42 USC 1766(f)(2)(C)).

I. Procurement and Suspension and Debarment

1. *Procurement* - Regardless of whether the State elects to follow State or Federal rules in accordance with the A-102 Common Rule, the following requirements must be followed for procurements initiated on or after October 1, 2000:
 - a. A State agency or institution shall not award a contract to a firm it used to orchestrate the procurement leading to that contract. Examples of services that would disqualify a firm from receiving the contract include preparing the specifications, drafting the solicitation, formulating contract terms and conditions, etc. (7 CFR section 3016.60(b) and 3019.43).
 - b. A State or local government shall not apply in-State or local geographical preference, whether statutorily or administratively prescribed, in awarding contracts (7 CFR sec. 3016.60(c)).
2. *Suspension and Debarment* - Mandatory awards by pass-through entities to subrecipients are excluded from the suspension and debarment rules (7 CFR section 3017.110(a)(2)(i)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

- e. *Subrecipient Financial Reporting* - A State agency may require subrecipients to report information the State agency needs to prepare the financial reports identified above. Such subrecipient reports should be tested during audits of the subrecipients.

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. State Agency Special Reporting

FNS-44, *Report of the Child and Adult Care Food Program (OMB No. 0584-0078)* - To receive CACFP funds, a State agency administering the program compiles the data gathered on its subrecipients' claims for reimbursement into monthly reports to its FNS regional office. Such reports present the number of meals served, by category and type, in institutions under the State agency's oversight during the report month.

An initial monthly report, which may contain estimated participation figures, is due 30 days after the close of the report month. A final report containing only actual participation data is due 90 days after the close of the report month. A final close-out report is also required, in accordance with the FNS close-out schedule. Revisions to the data presented in a 90 day report must be submitted by the last day of the quarter in which they are identified. However, the State agency must immediately submit an amended report if, at any time following the submission of the 90 day report, identified changes to the data cause the State agency's level of funding to change by more than (plus or minus) 0.5 percent.

Key Line Items - The following line items contain critical information.

- (1) Part A - No. Homes
 - (a) Line 6 - *No. of sponsoring organizations of day care homes administering between (ranges for numbers of homes given in columns)*
 - (b) Line 7 - *No. of homes for which sponsors are eligible to receive reimbursement based on rate for (ranges for numbers of homes given in columns)*
- (2) Part E
 - (a) Lines 22 through 30 - *Breakfasts*
 - (b) Lines 31 through 39 - *Lunches*

- (c) Lines 40 through 48 - *Suppers*
- (d) Lines 49 through 57 - *Supplements*
- (e) Lines 58 through 60 - *Total Free, Reduced Price, and Paid Meals Served (Respectively)*

b. Subrecipient Special Reporting

To receive reimbursement payments for meals served, an institution must submit claims for reimbursement to its administering agency. A claim must include the number of meals served by category and type during the period (generally a month) covered by the claim. All meals claimed for reimbursement must be of types authorized by the institution's administering agency; must be served to eligible children or adults; and must be supported by accurate meal counts and records indicating the number of meals served by category and type. Reimbursement is not allowed for meals served to a participant who is not enrolled for care, meals served in excess of an institution's licensed or authorized capacity, meal types that are not approved in the institution's agreement with its administering agency, or meals served in excess of the maximum number of approved meal services (7 CFR sections 226.10(c), 226.15(g), 226.17(b)(4), 226.19(b)(5), and 226.19a(b)(6)).

- (1) *Meals Served in Child and Adult Care Centers* - Several variants are available for reporting participation under the meals-times-rates reimbursement formula. They include: (1) reporting actual meal counts by category and type; (2) applying "blended per-meal rates" to actual counts of meals served by type; and (3) applying the center's "claiming percentage" for each category to its actual count of each type of meal served. The claiming percentage for each category is the ratio of enrolled persons eligible for meals in that category to all enrolled persons. The institution's agreement with its administering agency identifies the variant to be used (7 CFR section 226.9(b) and 226.11(b)).
- (2) *Meals Served in Family Day Care Homes* - Like a sponsor of centers, a family day care home sponsor must claim reimbursement for meals by category and type. With respect to day care homes, however, "category" refers to the tiering structure (tier I or tier II) rather than to an individual's income eligibility, as described under "Eligibility for Individuals," above (7 CFR section 226.13(b)).

To develop the information needed to prepare a claim, the sponsoring organization requires each day care home under its sponsorship to report the number of reimbursable meals served during each claim month. The sponsoring organization collects the

number of meals served, by type, from tier I homes and from tier II homes that elect not to request the sponsoring organization to make individual income eligibility determinations for enrolled children (7 CFR section 226.13(d)(1) and (2)). If a tier II day care home provider has elected to have its sponsoring organization make individual income eligibility determinations, program regulations provide several options for reporting the number of meals eligible for reimbursement at the tier I and II rates, respectively (7 CFR section 226.13(d)(3)).

The reimbursement rates for lunches and suppers served in family day care homes whose sponsoring organizations have elected to receive USDA donated commodities are reduced by the value of the commodities (7 CFR section 226.13(c)).

- (3) *Meals Served in After-School At-Risk Programs* - Reimbursement payments for snacks served to children in after-school at-risk programs are limited to one snack per child per day. In the States of Delaware, Illinois (effective November 28, 2001), Michigan, Missouri, New York, Oregon, and Pennsylvania, however, operators may also claim one supper per child per day. Snacks and suppers served in after-school at-risk programs are provided at no charge and reimbursed at the "free" rate (42 USC 1766(r)).
- (4) *Meals Served in Emergency Shelters* - A shelter or its sponsoring organization may claim reimbursement only for three meals, or two meals and one supplement, per child per day. All such meals are claimed and reimbursed at the free rate (42 USC 1766(t)(5)(B) and (C)).

An institution must report such information, in addition to meal counts, as its administering agency determines necessary to support the reimbursement claimed. For centers and sponsors of centers in States that elect to reimburse at the lesser of meals-times-rates or documented costs, such information includes their operating (meal production) costs. For sponsors of family day care homes, such information includes their administrative costs (7 CFR sections 226.7(m), 226.9(c) and (d), 226.10(c), 226.11(d), and 226.12(a)(1)). This aspect of the claiming process is discussed in III.A (Activities Allowed or Unallowed), above.

M. Subrecipient Monitoring

The administering agency is responsible for monitoring the institution's non-profit status to ensure that all reimbursements shall be used solely for the conduct of the food service operation or to improve such food service operations, principally for the benefit of the enrolled participants (7 CFR section 226.7(b)) and 42 USC 1766 (d)(1)(B)).

The administering agency is required to assess institutional compliance by performing on-site reviews of independent centers, sponsoring organizations of centers, and sponsoring organizations of day care homes, including reviews of new organizations, in accordance with a schedule prescribed in 7 CFR section 226.6(l) and 42 USC 1766 (d)(2)(A).

N. Special Tests and Provisions

1. Accountability for Commodities

Compliance Requirement - Accurate and complete records shall be maintained with respect to the receipt, distribution/use, and inventory of donated foods including end products processed from donated foods. Failure to maintain records required by 7 CFR section 250.16 shall be considered prima facie evidence of improper distribution or loss of donated foods, and the agency, processor, or entity is liable for the value of the food or replacement of the food in kind (7 CFR sections 250.16(a)(6) and 250.15(c)).

Distributing agencies and institutions shall take a physical inventory of all storage facilities. Such inventory shall be reconciled annually with the storage facility's inventory records and maintained on file by the agency which contracted with or maintained the storage facility. Corrective action shall be taken immediately on all deficiencies and inventory discrepancies and the results of the corrective action forwarded to the distributing agency (7 CFR section 250.14(e)).

Exception: Single Inventory Recordkeeping System - In July 2001, FNS provided States with the option of adopting a single inventory recordkeeping system that combines purchased food and commodities donated for the CACFP into one inventory system. The provision was made to accommodate the conditions created by USDA's decision to purchase and distribute commodities in commercial labels rather than USDA labels. Since commodities would be visually indistinguishable from purchased foods, maintaining separate inventories for the two classes in order to facilitate compliance with the foregoing regulatory requirements would be difficult. Therefore, FNS has granted States a waiver from those requirements. States that adopt the single inventory recordkeeping system, and CACFP institutions under their oversight, are instructed to apply the same recordkeeping and inventory requirements to commodities that they use to safeguard foods purchased with CACFP reimbursement funds.

More information on commercial labeling and the related regulatory waiver is available on FNS's Food Distribution web site at:

<http://www.fns.usda.gov/fdd/MENU/fd2000/updates/stateupdates.htm>. After accessing the site, one should select option 10 (Most Frequently Asked Questions on Commercial Labeling and Inventory Management).

Therefore, auditors making audits of States that have adopted the single inventory recordkeeping system, and of CACFP institutions under such States' oversight, are not required to test compliance with this compliance requirement.

Audit Objective - Determine whether an appropriate accounting was maintained for donated food commodities, that an annual physical inventory was taken, and the physical inventory was reconciled with inventory records.

Suggested Audit Procedures

- a. Ascertain storage facility, processing, and end use locations of all donated food commodities, including end products processed from donated foods. Ascertain the commodity records maintained by the entity and obtain a copy of procedures for conducting the required annual physical inventory. Obtain a copy of the annual physical inventory results.
- b. Perform analytical procedures, obtain explanation and documentation for unusual or unexpected results. Consider the following:
 - (1) Compare receipts, usage/distribution, losses and ending inventory of donated foods for the audit period to the previous period.
 - (2) If auditing at the distributing agency level, compare distribution by entity for the audit period to the previous period.
 - (3) If auditing at the institution level, compare relationship of usage of donated foods to production, meals served, or similar activity reports for the audit period to the same relationship for the previous period.
- c. Ascertain the validity of the required annual physical inventory. Consider performing the following steps, as appropriate:
 - (1) Observe the annual inventory process at selected locations and recount a sample of commodity items.
 - (2) If the annual inventory process is not observed, select a sample of significant commodities on hand as of the physical inventory date and, using the commodity records, "roll forward" the balance on hand to the current balance observed.
 - (3) On a test basis, recompute physical inventory sheets and related summarizations.
 - (4) Ascertain that the annual physical inventory was reconciled to commodity records. Investigate any large adjustments between the physical inventory and the commodity records.
- d. On a sample basis, test the mathematical accuracy of the commodity records and related summarizations. From the commodity records, vouch a sample of receipts, usage/distributions, and losses to supporting documentation. Ascertain

that activity is properly recorded, including correct quantity, proper period and, if applicable, correct recipient agency.

UNITED STATES DEPARTMENT OF AGRICULTURE**CFDA 10.566 NUTRITION ASSISTANCE FOR PUERTO RICO****I. PROGRAM OBJECTIVES**

The objective of the Puerto Rico Nutrition Assistance Program (NAP) is to help needy residents of the Commonwealth of Puerto Rico (PR) meet their nutritional needs.

II. PROGRAM PROCEDURES**Administration**

Funds for the NAP are appropriated annually. The Food and Nutrition Service (FNS) of the USDA provides an annual block grant to the PR Department of the Family to cover the full cost of program benefits and 50 percent of the costs of administering the program. As a condition of receiving the grant, PR must submit an annual plan of operation for review and approval by FNS. FNS provides monthly increments to PR's NAP letter-of-credit authorization on the basis of budget estimates contained in the approved plan. FNS also monitors program operations to assure program integrity. These monitoring activities include reviewing financial reports and making on-site management reviews of selected program operations (7 CFR sections 285.2(a) and 285.3).

Benefits

Under the NAP, participating households receive nutritional benefits to supplement their incomes. They must use these program benefits to purchase foods for preparation and consumption at home. The amount of a household's monthly benefit payment depends on the household's characteristics, financial circumstances, and the funds available for distribution. PR establishes the eligibility and benefit levels for the program. The benefits are revised October 1 of each year to consider the nutritional needs of PR's needy population and to provide for the distribution of available block grant funds.

A household receives its monthly benefit payment electronically. PR issues each client household a debit card with which to access the benefits. Since September 2001, 75 percent of each household's monthly benefit has been designated for use in making food purchases at retailers authorized by PR. The remaining 25 percent is a cash benefit. Clients may use their debit cards to obtain cash at ATMs, or to combine their cash and non-cash benefits in food purchases from authorized retailers. PR monitors retailer and household compliance.

Benefit Redemption

NAP benefits are administered through an electronic benefits transfer (EBT) system. PR establishes a benefit account to control the issuance and use of each household's benefits. Benefit issuance takes the form of posting monthly increments to the client's account: 75 percent to the non-cash account and 25 percent to the cash account. ATM transactions generate charges against the client's cash account. Purchases at authorized retailers generate on-line charges

against the client's non-cash account; these are resolved by crediting the retailers for the amount of client purchases. PR must reconcile the funds exiting the EBT system and paid to retailers with amounts drawn from its EBT benefit account with the Government Development Bank (GDB). Cash drawn from PR's letter-of-credit is used to settle accounts with the GDB. A service provider is used to process NAP EBT transactions.

PR obtains an examination by an independent auditor of the EBT service provider (service organization) regarding the issuance, redemption, and settlement of benefits in accordance with the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards (SAS) No. 70, Service Organizations.

Source of Governing Requirements

USDA regulations pertaining to NAP are found in 7 CFR part 285. Many program requirements are established through PR's approved annual plan of operation.

III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

The annual plan of operation submitted by the PR Department of the Family must include a description of PR's program for providing nutrition assistance to needy persons. The nutrition assistance PR actually provides must conform to the approved plan (7 CFR section 285.3(b)(3)).

E. Eligibility

1. Eligibility for Individuals

The PR Department of the Family is required to identify in its annual plan the population eligible for NAP benefits. In testing the propriety of eligibility determinations and disbursements for NAP benefits, the auditor shall apply the eligibility criteria established by the PR Department of the Family and identified in the annual plan (7 CFR section 285.3(b)(2)).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility of Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking**1. Matching**

The NAP grant provided by FNS is intended to cover 100 percent of PR's expenditures for NAP benefits and 50 percent of the related administrative expenses. PR must provide funds for its 50 percent share of the administrative expenses (7 CFR section 285.2(a)).

2. Level of Effort - Not Applicable**3. Earmarking - Not Applicable****H. Period of Availability of Federal Funds**

Payments received by PR for a fiscal year may not exceed the amount authorized for the grant or the total NAP cost eligible for funding, whichever is less, for that fiscal year. Funds for payments for any prior fiscal year expenditures must be claimed against the funding for that fiscal year (7 CFR section 285.2(b)).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable**3. Special Reporting - Not Applicable****N. Special Tests and Provisions****1. EBT Reconciliation**

Compliance Requirement - PR must perform all the following:

- a. Record and compare payments to the Daily Activity File and the Daily Payments Summary File prepared by the EBT Services provider for the Department of the Family (PR Annual Plan of Operation, F.2.A.1. (Reconciliation System (EBT))).

- b. Perform the following reconciliations (PR Annual Plan of Operation, F.2.A.1. (Reconciliation System (EBT)):
- (1) Benefits authorized equal benefits posted.
 - (2) Benefits accessed by recipients (net EBT account debits/credits) equal benefit amount transactions approved by the EBT services provider.
 - (3) Net EBT account debits/credits equal amount paid to merchants and financial institutions (plus/minus authorized adjustments).
 - (4) Amount paid to merchants and financial institutions equal funds requested by the EBT services provider (plus/minus authorized adjustments).

PR's EBT service provider maintains transaction trails that document the cycle of household transactions from the posting of point-of-sale transactions at retailers through the settlement of retailer credits. (PR annual plan of operation for Federal Fiscal Year 2002, section B, paragraphs E.7 (Electronic Benefits Transfer System) and F.2.A.1 (Program Administration - Reconciliation System (EBT))).

Audit Objective - Determine whether PR performs the required comparisons and reconciliations.

Suggested Audit Procedures

- a. Ascertain if PR has a process in place to perform the required comparisons and reconciliations.
- b. Test a sample of comparisons and reconciliations to ascertain if they are properly performed and that there is proper follow-up and resolution of discrepancies.

UNITED STATES DEPARTMENT OF AGRICULTURE**CFDA 10.568 EMERGENCY FOOD ASSISTANCE PROGRAM (ADMINISTRATIVE COSTS)****CFDA 10.569 EMERGENCY FOOD ASSISTANCE PROGRAM (FOOD COMMODITIES)****I. PROGRAM OBJECTIVES**

The objective of The Emergency Food Assistance Program (TEFAP) Cluster is to provide U.S. Department of Agriculture (USDA) donated commodities to low-income households for home consumption, and to provide hot meals prepared from USDA donated commodities to needy persons in congregate settings.

II. PROGRAM PROCEDURES

The Food and Nutrition Service (FNS) of the USDA administers TEFAP. FNS enters into agreements with State distributing agencies for the distribution of USDA donated commodities, and provides funding for the administrative costs these organizations incur in performing this function. The State distributing agencies with which FNS makes agreements for the operation of TEFAP are generally the same State agencies that administer other USDA commodity programs, such as State departments of agriculture, education, etc.

At the local (subrecipient) level, the program is operated by Eligible Recipient Agencies (ERAs). ERAs include public and private non-profit organizations that operate Emergency Feeding Organizations (EFOs), charitable institutions such as hospitals and retirement homes, summer camps for children, and child nutrition programs providing food service, nutrition programs under the Older Americans Act of 1965 (P.L. 89-73), and disaster relief programs. EFOs include public and private non-profit organizations that provide nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, such as food banks, food pantries, soup kitchens, etc.

An ERA may receive a TEFAP subgrant directly from the State agency, or from another ERA. In designating ERAs, a State agency may give priority to existing food bank networks and other organizations whose primary function is to facilitate the distribution of food to low-income households, including food from sources other than USDA. A State may delegate its storage and distribution functions to one or more food banks or other ERAs.

USDA provides commodities to State agencies, and the State agencies arrange for their delivery to ERAs. State agencies are prohibited from charging ERAs any type of fee for providing this service (7 CFR section 251.9(d); 7 USC 7511). FNS also awards each State agency a cash grant for the administrative cost of carrying out its TEFAP food delivery and oversight functions. The State agency, in turn, awards subgrants to its ERAs and/or incurs administrative costs on their behalf. The value of TEFAP entitlement commodities and the amount of administrative funds a State agency may receive are determined through an allocation formula described at 7 CFR section 251.3(d). USDA may provide bonus commodities in addition to the formula-generated entitlement commodities.

To gain access to its commodities and administrative funds, a State agency must have a distribution plan and a Federal-State Agreement on file with the applicable FNS regional office. The distribution plan gives the State agency's criteria for awarding subgrants to ERAs and for certifying households eligible for TEFAP benefits. Both the Federal-State Agreement and the State agency's agreements with its ERAs may be amended at any time due to program changes or at the request of either party.

Determinations of households' eligibility for TEFAP benefits are generally made by ERAs in accordance with the criteria and procedures established by the State agency in its distribution plan. ERAs may issue commodities to members of eligible households in quantities suitable for meal preparation at home or they may use the commodities in the operation of feeding sites that serve prepared meals.

The ERAs that conduct these issuance and congregate feeding activities are known as "distribution sites." In some cases, distribution sites are operated by separate organizations as sub-subrecipients of other ERAs. Some distribution sites use mostly paid employees to carry out their missions, while others rely heavily on the services of volunteers.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 incorporated into TEFAP a previously separate program entitled Commodities for Soup Kitchens and Food Banks (CFDA 10.571). Activities formerly conducted under that program are now deemed TEFAP activities, and residual stocks of commodities originally made available for that program are now deemed TEFAP commodities. Accordingly, CFDA 10.571 should not appear in a State's or subrecipient's Schedule of Expenditures of Federal Awards.

Source of Governing Requirements

TEFAP is authorized by the Emergency Food Assistance Act of 1983 (Pub. L. No. Law 98-8) (7 USC 7501-16), as amended by the Hunger Prevention Act of 1988 (Pub. L. No. 100-435) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193). Program regulations are found at 7 CFR part 251.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

A State agency or ERA must use its administrative cost grant or subgrant for activities intrinsic to the processing, transportation, and distribution of TEFAP commodities within its State or service area. Such activities are listed at 7 CFR section 251.8(d)(1)(i)(A) through (E). Under certain circumstances, a State agency may also use these funds for: transporting TEFAP commodities to other States; and transporting non-USDA foods in from other States (7 USC 7505(d)).

An ERA that receives USDA non-program commodities and TEFAP commodities may use its administrative cost subgrant for the distribution of both classes of commodities. In addition, a State agency or ERA may use its administrative funds for certain activities associated with the distribution of non-USDA foods donated by private individuals and organizations (7 CFR section 251.8(d)(1)(ii)).

B. Allowable Costs/Cost Principles

While regulations issued under previous legislation had required State agencies and ERAs to use TEFAP administrative funds solely for direct costs, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 expressly identified State level indirect costs as allowable costs (Personal Responsibility and Work Opportunity Reconciliation Act of 1996, section 202A(c)(1)).

E. Eligibility

1. Eligibility for Individuals

- a. *Receipt of Commodities for Household Use* - An EFO certifies households eligible to receive TEFAP commodities for household consumption by applying income eligibility criteria established by the State agency (7 CFR section 251.5(b)). These criteria are approved in advance by FNS as part of the State agency's distribution plan (7 CFR section 251.6(a)).
- b. *Receipt of Prepared Meals* - There is no means test for eligibility of persons receiving prepared meals. Their eligibility is derived from the ERA's eligibility to receive and use TEFAP commodities.

2. Eligibility for Group of Individuals or Area of Service Delivery - Not applicable.

3. Eligibility for Subrecipients

To receive commodities and TEFAP administrative funds, a public or non-profit private organization must have entered into an agreement with the State agency, or with another ERA, binding it to perform the duties of an ERA. The State agency's distribution plan identifies the classes of organizations with which it will enter into such agreements.

G. Matching, Level of Effort, Earmarking

1. Matching

A State agency must match each Federal dollar expended for State level TEFAP administrative costs with a dollar from non-Federal sources (7 CFR section 251.9(a)).

Exceptions - The following States are exempted from the matching requirement in any fiscal year in which their respective required matching contributions would have fallen below \$200,000: American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Marianas (7 CFR section 251.9(b)).

Acceptable Matching Contributions - Acceptable matching contributions include:

- (a) Cash expenditures by the State agency for allowable State or local level TEFAP administrative costs (7 CFR section 251.9(c)(1)); and
- (b) Certain non-cash contributions. These may include: (1) the value of goods and services specifically identifiable with allowable State administrative costs; (2) the value of goods and services contributed by the State agency to an ERA, which are specifically identifiable with allowable local-level administrative costs; and (3) the value of third-party in-kind contributions, provided such contributions support functions meeting criteria stated in the program regulations (7 CFR section 251.9(c)(2)).

2. Level of Effort - Not Applicable

3. Earmarking

A State agency must use at least 40 percent of its TEFAP administrative cost grant for costs that benefit ERAs. The State agency may do this by awarding subgrants directly to ERAs, and/or by incurring costs the ERAs would otherwise have had to pay themselves (7 CFR section 251.8(d)(3)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. FCS-667, *Report of the Emergency Food Assistance Program (TEFAP) Administrative Costs (TEFAP) (OMB No. 0584-0385)* - This report captures the status of a State's TEFAP administrative cost grant in a manner that identifies the portions applied to State level costs, costs paid by the State on behalf of ERAs, and costs paid by the ERAs themselves. It thus facilitates the monitoring of a State's compliance with the State matching and 40 percent pass-through requirements (7 CFR section 251.10(d)).

Key line items - The following line items contain critical information.

1. Line c. - Net Outlays to Date
2. Line f. - Total State Agency's Share of Net Outlays
3. Line k. - Total Federal Share

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

M. Subrecipient Monitoring

A State agency must make on-site reviews of ERAs under its oversight, and of distribution sites operated by such ERAs, in accordance with its distribution plan. At a minimum, the State agency's annual review coverage must include 25 percent of its ERAs and one-third or 50 (whichever is less) of the distribution sites in the State. To the maximum extent practicable, review scheduling should enable State agency staff to observe TEFAP commodity issuance and prepared meal service operations (7 CFR section 251.10(e)).

N. Special Tests and Provisions

1. Accountability for Commodities

Compliance Requirement - Accurate and complete records shall be maintained with respect to the receipt, distribution/use, and inventory of donated foods including end products processed from donated foods. Failure to maintain records required by 7 CFR section 250.16 shall be considered prima facie evidence of improper distribution or loss of donated foods, and the agency, processor, or entity is liable for the value of the food or replacement of the food in kind (7 CFR sections 250.16(a)(6) and 250.15(c)).

Distributing and recipient agencies shall take a physical inventory of all storage facilities. Such inventory shall be reconciled annually with the storage facility's inventory records and maintained on file by the agency which contracted with or maintained the storage facility. Corrective action shall be taken immediately on all deficiencies and inventory discrepancies and the results of the corrective action forwarded to the distributing agency (7 CFR section 250.14(e)).

Audit Objective - Determine whether an appropriate accounting was maintained for donated food commodities, that an annual physical inventory was taken, and the physical inventory was reconciled with inventory records.

Suggested Audit Procedures

- a. Determine storage facility, processing, and end use locations of all donated food commodities, including end products processed from donated foods. Determine

the commodity records maintained by the entity and obtain a copy of procedures for conducting the required annual physical inventory. Obtain a copy of the annual physical inventory results.

- b. Perform analytical procedures, obtain explanation and documentation for unusual or unexpected results. Consider the following:
 - (1) Compare receipts, usage/distribution, losses and ending inventory of donated foods for the audit period to the previous period.
 - (2) If auditing at the State distributing agency level, compare distribution by entity for the audit period to the previous period.
 - (3) If auditing at the ERA level, compare relationship of usage of donated foods to production, meals served, or similar activity reports for the audit period to the same relationship for the previous period.

- c. Ascertain the validity of the required annual physical inventory. Consider performing the following steps, as appropriate:
 - (1) Observe the annual inventory process at selected locations and recount a sample of commodity items.
 - (2) If the annual inventory process is not observed, select a sample of significant commodities on hand as of the physical inventory date and, using the commodity records, "roll forward" the balance on hand to the current balance observed.
 - (3) On a test basis, recompute physical inventory sheets and related summarizations.
 - (4) Ascertain that the annual physical inventory was reconciled to commodity records. Investigate any large adjustments between the physical inventory and the commodity records.

- d. On a sample basis, test the mathematical accuracy of the commodity records and related summarizations. From the commodity records, vouch a sample of receipts, usage/distributions, and losses to supporting documentation. Ascertain that activity is properly recorded, including correct quantity, proper period and, if applicable, correct ERA.

UNITED STATES DEPARTMENT OF AGRICULTURE

CFDA 10.570 NUTRITION PROGRAM FOR THE ELDERLY (COMMODITIES)

I. PROGRAM OBJECTIVES

The purpose of the Nutrition Program for the Elderly (NPE) is to provide incentives to encourage and reward effective performance by States in the efficient and effective delivery of nutritious meals to older individuals.

II. PROGRAM PROCEDURES

Section 311(a)(4) of the Older Americans Act of 1965 (OAA), as amended, (42 USC 3030a(c)) authorizes the U.S. Department of Agriculture (USDA) to donate food commodities to States for use in providing nutrition services as authorized under Title III, Part C of the OAA. The USDA Food and Nutrition Service (FNS) enters into agreements with State distributing agencies for the distribution of USDA donated commodities. The State distributing agencies, in turn, enter into agreements with local program operators known as "recipient agencies." A State may designate a recipient agency to perform its storage and distribution duties. In the case of NPE, the State distributing agencies generally distribute the commodities to area agencies on the aging, which, in turn, distribute them to local service outlets. These entities use the commodities in preparing meals to be served to eligible persons in congregate feeding sites or delivered to eligible individuals' homes.

A State's eligibility for NPE entitlement commodities is determined by dividing the number of meals served to eligible persons in the State during the preceding Federal fiscal year by the number of such meals served in all States; and applying the resulting ratio to the amount of funds available. Bonus commodities are provided in addition to the State's entitlement, and do not count against it.

Under sections 311(b)(1) and (d)(1) of the OAA (42 USC 3030a(d)(1)) and (e)(1), a State may elect to receive any portion of its NPE entitlement in cash. The State agency on aging makes this determination, and FNS disburses the cash in lieu of NPE commodities to that State agency. The State agency, in turn, passes the cash through to area agencies on aging. Cash in lieu of NPE commodities must be used to purchase food for use in Title III elderly feeding operations.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Commodities donated by USDA must be used in the preparation of meals served under Special Programs for the Aging, Title III, Part C (Nutrition Services). Cash paid in lieu of commodities must be used to purchase food for use in such meals (7 CFR section 250.42(c)(5)(ii)).

E. Eligibility

1. **Eligibility for Individuals** - Not Applicable
2. **Eligibility for Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients**

A State may provide USDA donated commodities and cash in lieu thereof only to area agencies on aging that operate Special Programs for the Aging under Title III, Part C of the OAA. An area agency on aging, in turn, may provide NPE assistance only to agencies that are under the jurisdiction, control, management, and audit authority of the network of State and area agencies on aging (7 CFR section 250.42(a)).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. *Subrecipient Financial Reporting* - A State agency may require area agencies on aging under its oversight to report information the State agency needs to prepare the financial reports identified above. These reports should be tested during audits of the area agencies on aging.

2. Performance Reporting - Not Applicable**3. Special Reporting** - Not Applicable

M. Subrecipient Monitoring

Under 7 CFR section 250.19(b)(1), a State agency must make quadrennial reviews of each commodity recipient agency under its oversight. At least 25 percent of such agencies must be reviewed in each year of this quadrennial review cycle.

N. Special Tests and Provisions

1. Accountability for Commodities

Compliance Requirement - Accurate and complete records shall be maintained with respect to the receipt, distribution/use, and inventory of donated foods including end products processed from donated foods. Failure to maintain records required by section 250.16 shall be considered prima facie evidence of improper distribution or loss of donated foods, and the agency, processor, or entity is liable for the value of the food or replacement of the food in kind (7 CFR sections 250.16(a)(6) and 250.15(c)). Distributing and recipient agencies shall take a physical inventory of all storage facilities. Such inventory shall be reconciled annually with the storage facility's inventory records and maintained on file by the agency which contracted with or maintained the storage facility. Corrective action shall be taken immediately on all deficiencies and inventory discrepancies and the results of the corrective action forwarded to the distributing agency (7 CFR section 250.14(e)).

Audit Objective - Determine whether an appropriate accounting was maintained for donated food commodities, that an annual physical inventory was taken, and the physical inventory was reconciled with inventory records.

Suggested Audit Procedures

- a. Determine storage facility, processing, and end use locations of all donated food commodities, including end products processed from donated foods. Determine the commodity records maintained by the entity and obtain a copy of procedures for conducting the required annual physical inventory. Obtain a copy of the annual physical inventory results.
- b. Perform analytical procedures, obtain explanation and documentation for unusual or unexpected results. Consider the following:
 - (1) Compare receipts, usage/distribution, losses and ending inventory of donated foods for the audit period to the previous period.
 - (2) If auditing at the distributing agency level, compare distribution by entity for the audit period to the previous period.
 - (3) If auditing at the recipient agency level, compare relationship of usage of donated foods to production, meals served, or similar activity reports for the audit period to the same relationship for the previous period.

- c. Ascertain the validity of the required annual physical inventory. Consider performing the following steps, as appropriate:
- (1) Observe the annual inventory process at selected locations and recount a sample of commodity items.
 - (2) If the annual inventory process is not observed, select a sample of significant commodities on hand as of the physical inventory date and, using the commodity records, "roll forward" the balance on hand to the current balance observed.
 - (3) On a test basis, recompute physical inventory sheets and related summarizations.
 - (4) Ascertain that the annual physical inventory was reconciled to commodity records. Investigate any large adjustments between the physical inventory and the commodity records.
- d. On a sample basis, test the mathematical accuracy of the commodity records and related summarizations. From the commodity records, vouch a sample of receipts, usage/distributions, and losses to supporting documentation. Ascertain that activity is properly recorded, including correct quantity, proper period and, if applicable, correct recipient agency.

DEPARTMENT OF AGRICULTURE

CFDA 10.665 SCHOOLS AND ROADS - GRANTS TO STATES CFDA 10.666 SCHOOLS AND ROADS - GRANTS TO COUNTIES

I. PROGRAM OBJECTIVES

The objective of this program is to share receipts from the national forests with the States in which the national forests are situated. Generally, these funds are to be used for the benefit of public schools and public roads of the county or counties in which the national forest is situated.

II. PROGRAM PROCEDURES

General

Since the early 1900s, the Congress has enacted laws directing that a State or county be compensated for the presence of Federal lands in the State. The compensation may be based on Federal acreage or a county's population, but in most instances, the payments relate to a percentage of the receipts generated on Federal land. Federal laws requiring payments to States based on national forest receipts, provide the basis and methodology of the compensation payments to the States but allow States to prescribe how the funds are spent for schools and roads in the county or counties in which the national forest is situated. All disbursement transactions are processed through the U.S. Treasury.

Program Operation

25-Percent Payment - 25 percent of gross receipts generated on Forest Service lands during the fiscal year is distributed to the States. Payments are to be used to benefit public schools and public roads of the county or counties in which the national forest is situated. Two payments are made to the States: an interim payment is made in October on the basis of estimated third-quarter operating results, and a final payment is made in December, providing the balance of the actual receipts due to the counties. The Forest Service calculates both payments and sends letters to the States advising them of the amount and of each county's historic percentage of the payment based on the county's acreage in the national forest. The Forest Service notifies the U.S. Treasury of the amounts to be paid, and the funds are electronically transmitted to the States. The States verify the amount of each deposit with information received from the Forest Service, then distribute the funds to the counties in which the national forests are situated.

Full Payment Amount (Secure Rural Schools and Community Self-Determination Payment) - This payment is made in relation to the State's 25-Percent Payment. Each eligible county elects to receive either its share of the 25-Percent Payment, as described above, or its share of the State's "Full Payment Amount." Such payments are authorized for Federal Fiscal Years 2001 through 2006. For purposes of making the 2001 payment, the full payment amount for each eligible State, and the share thereof for each eligible county that elects to receive it, is stated in the Forest Service document entitled "Pub. L. No. 106-393, Secure Rural Schools and Community Self-Determination Act," dated July 31, 2001. For purposes of making the payments required in Federal Fiscal Years 2002 through 2006, the Forest Service shall annually adjust the

amounts stated in that document in accordance with section 751(b) of Pub. L. No. 107-76 (115 Stat. 739, November 28, 2001).

Quinault Special Payment - 45 percent of the gross receipts generated by the Quinault Special Management Area is distributed to the State of Washington for the benefit of public roads and public schools. This amount is combined with the 25-Percent Payment to Washington State to make one payment. Washington State distributes Quinault payments to the counties as part of its 25-Percent Payment.

Arkansas Smoky Quartz Payment - 50 percent of the receipts from the sale of quartz mined on the Ouachita National Forest in Arkansas is distributed to Arkansas for the benefit of public roads and public schools of the counties in which the forest is situated. The Forest Service calculates these payments by subtracting the quartz receipts from the forest receipts and applying the 50 percent rate to these quartz receipts. The quartz payment is added to the State's 25-Percent Payment and distributed in one lump sum.

Payments to Minnesota - Three-quarters of 1 percent of the fair appraised value of specified national forest lands in Cook, Lake, and St. Louis Counties is paid to the State. The Forest Service adds this amount to the 25 Percent Payment for the remainder of Minnesota and makes one payment to the State. The State distributes funds to Cook, Lake, and St. Louis counties according to the fair appraised value of the specified national forest lands in each county.

National Grasslands Payment - 25 percent of net revenues from national grasslands and land utilization projects (LUPs) administered under Title III of the Bankhead-Jones Farm Tenant Act (grazing receipts collected by the Forest Service and mineral receipts collected by the Minerals Management Service and transmitted to the Forest Service for distribution) is distributed to the 80 counties containing Forest Service national grasslands. Payments are made directly to the counties where the national grasslands and LUPs are located.

Source of Governing Requirements

25 Percent Fund - 16 USC 500

Secure Rural Schools and Community Self-Determination Act Payments - 16 USC 500 note; Section 751 of Pub. L. No. 107-76 (115 Stat. 739, November 28, 2001)

Quinault Special Payment - Pub. L. No. 100-638, section 4(b)(2)

Arkansas Smoky Quartz Payment - Pub. L. No. 100-446, section 323

Payments to Minnesota - 16 USC 577g and 577g-1

National Grasslands Payment - 7 USC 1012

Availability of Other Program Information

Program information may be found on the Internet at www.fs.fed.us.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *25-Percent Payment* funds must be used for public roads and public schools of the county or counties in which the national forest is situated (16 USC 500 note section 102).
2. *Full Payment Amount* funds must be used for public roads and public schools of the county in which the national forest is situated (Title I), special projects on Federal lands (Title II), or county projects (Title III) (16 USC 500 note sections 102, 202, and 302).
3. *Quinault Special Payment* funds must be used for public schools and roads of the county or counties in which the national forest is situated (Pub. L. No. 100-638, section 4(b)(2)).
4. *Arkansas Smoky Quartz Payment* funds must be used for public roads and public schools in the counties in which the Ouachita National Forest is located (Pub. L. No. 100-446, section 323).
5. *Payments to Minnesota* funds have no restrictions on use (16 USC 577g and g-1).
6. *National Grasslands Payment* funds must be used for roads or schools in the county in which the land is located (7 USC 1012).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**

A county that elects to receive its share of the *Full Payment Amount* and that share is \$100,000 or more must:

- a. Use at least 80 percent but not more than 85 percent of the funds for public roads and public schools (16 USC 500 note section 102(d)).
- b. Use the balance of the funds for any combination of the following:

- (1) Reserve for special projects on Federal lands in which case the funds are deposited in a special account in the U.S. Treasury (16 USC 500 note sections 102(d), 202).
- (2) Search, rescue, and emergency services; community service work camps; easement purchases; forest related educational opportunities; fire prevention and county planning; and community forestry (16 USC 500 note sections 102(d) and 302).
- (3) Return to the U.S. Treasury (16 USC 500 note sections 102(d) and 402).

UNITED STATES DEPARTMENT OF AGRICULTURE**CFDA 10.760 WATER AND WASTE DISPOSAL SYSTEMS FOR RURAL COMMUNITIES****I. PROGRAM OBJECTIVES**

The Water and Waste Program is designed to assist rural communities in obtaining safe drinking water and adequate waste facilities, which are prerequisites for economic growth. In recent years, water and waste systems have been subject to increasingly stringent regulation under the Safe Drinking Water Act and the Clean Water Act. This program is instrumental in providing the financing to build or upgrade rural water and waste facilities.

II. Program Procedures

Under this program, United States Department of Agriculture's (USDA) Rural Utilities Service (RUS) awards direct loans, loan guarantees, and project grants for new and improved water and waste systems serving rural areas where financing is not available from commercial sources at reasonable rates and terms. The Water and Waste Program is authorized to provide loan and grant assistance to eligible applicants for water and waste disposal facilities in rural areas and towns of up to 10,000 people.

Eligible applicants include: (1) a public body, such as a municipality, district, county, authority, Indian tribe, or other political subdivision of a state, territory or commonwealth (7 CFR sections 1780.7(a)(1) and (a)(3)); or (2) An organization operated on a not-for-profit basis, such as a cooperative, association, or private corporation (7 CFR section 1780.7(a)(2)).

Direct Loans for Water and Waste Disposal Systems

To establish its eligibility for a loan, an applicant must demonstrate to RUS that it cannot finance the proposed project from its own resources or obtain sufficient credit to do so at reasonable terms or rates. In addition, the applicant must have the legal authority to construct, operate and maintain the proposed facility, and to give security for and repay the proposed loan. (7 CFR section 1780.7) A loan is repayable in not more than 40 years or the useful life of the facility, whichever is less. Interest is charged at a poverty rate, intermediate rate, or market rate depending on the circumstances (7 CFR section 1780.13).

Project Grants for Water and Waste Disposal Systems

RUS makes grants in conjunction with direct loans for water and waste disposal projects servicing the most financially needy communities in order to reduce user costs to a reasonable level. Grant amounts are based on a graduated scale that provides higher amounts for projects in communities that have lower income levels; however, a grant amount may never exceed 75 percent of a project's eligible development costs. To establish grant eligibility, an applicant must demonstrate to RUS that it serves a rural area whose median household income (MHI) falls below the statewide nonmetropolitan median household income (NMHI) (7 CFR section 1780.10).

Guaranteed Loans for Water and Waste Disposal Systems

RUS generally guarantees 80 percent of the loan amount but may, in extraordinary circumstances, guarantee a higher level not to exceed 90 percent. The interest rate for guaranteed loans is negotiated between the recipient and the lender (7 CFR sections 1980.819 and 1980.823).

Source of Governing Requirements

The program is authorized by under Section 306 of the Consolidated Farm and Rural Development Act (7 USC 1926). Implementing regulations are at 7 CFR part 1780.

Availability of Other Program Information

RUS maintains a home page on the Internet (www.usda.gov/rus/water/), which provides general information about this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Loan and grant funds may be expended on eligible project costs, as approved by RUS. These expenditures include items such as land acquisition, water rights, legal fees, engineering fees, construction costs, and the purchase of equipment (7 CFR section 1780.9).
2. Loan and grant funds may not be used for the following (7 CFR section 1780.10):
 - a. Facilities which are not modest in size, design, and cost.
 - b. Loan or grant finder's fees.
 - c. The construction of any new combined storm and sanitary sewer facilities.
 - d. Any portion of the cost of a facility which does not serve a rural area.
 - e. That portion of project costs normally provided by a business or industrial user, such as wastewater pretreatment, etc.
 - f. Rental for the use of equipment or machinery owned by the applicant.

- g. For other purposes not directly related to operating and maintaining the facility being installed or improved.

G. Matching, Level of Effort, Earmarking

Borrowers may be required to provide funds from other sources as required in the grant agreement and the letter of conditions issued by RUS (7 CFR sections 1780.44(d) and (f)).

L. Reporting Requirements

1. Financial Reporting

- a. SF-269 - *Financial Status Report* - Not Applicable
- b. SF-270 - *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271 - *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272 - *Federal Cash Transaction Report* - Not Applicable
- e. Form RD 442-2, *Statement of Budget, Income and Equity (OMB No. 0575-0015)* - This report covers financial operations relating to the borrower's water or waste disposal project.
- f. Form RD 442-3, *Balance Sheet (OMB No. 0575-0015)* - This report presents the financial status of the borrower's water or waste disposal project.

2. Performance Reporting - Not Applicable

3. Special Tests and Provisions - Not Applicable

IV. OTHER INFORMATION

Interim Financing

After RUS has made a commitment on a loan, the borrower may obtain interim financing from commercial sources (e.g., a bank loan) for the construction period (7 CFR section 1780.30(d)). Expenditures from these commercial sources which will be repaid from the proceeds of the RUS loan should be considered Federal awards expended, included in determining Type A programs, and reported in the Schedule of Expenditures of Federal Awards.

Status of Outstanding Loan Balance After Project Completion

In years after the program funds are expended and construction is completed, and the only ongoing financial activity of the program is the payment of principal and interest on outstanding loan balances, the prior loan balances are not considered to have continuing compliance requirements under OMB Circular A-133 section ____.205(d). Prior loans which do not have continuing compliance requirements other than to repay the loans are not considered Federal awards expended and therefore are not required to be audited under OMB Circular A-133.

However, this does not relieve the borrower of the requirement to file financial reports on these loans (which are not required to be audited) or otherwise comply with program requirements (e.g., maintaining insurance, depositing funds in federally insured banks, obtaining prior approval for sales of plant).

UNITED STATES DEPARTMENT OF AGRICULTURE**CFDA 10.766 COMMUNITY FACILITIES LOANS AND GRANTS****I. PROGRAM OBJECTIVES**

The objective of the Community Facilities (CF) direct loan, guaranteed loan, and grant programs is to provide direct, guaranteed loan funds or grants to rural communities to construct, enlarge, expand, or otherwise improve essential community facilities in rural communities. Funds are made available to public bodies, non-profit organizations, or Federally recognized Indian tribes that are providing essential services to rural communities when financing is not available from other sources at reasonable rates and terms.

II. PROGRAM PROCEDURES

These programs are administered at the headquarters level by the United States Department of Agriculture (USDA) Rural Housing Service (RHS) and in the field by USDA Rural Development field offices. Funds are made available directly to local governments, non-profit organizations, and Indian tribal organizations in the form of direct loans, guaranteed loans, and grants. Funds are used for the development of essential community facilities in rural areas and towns of up to 20,000 population.

An essential community facility is one that: (a) supports a function customarily provided by a local unit of government such as a fire and rescue or a health care facility; (b) is a public improvement needed for orderly development of a rural community; (c) does not include private affairs, commercial, or business undertakings (except for limited authority for industrial parks); and (d) is within the area of jurisdiction or operation for the public bodies eligible to receive assistance or a similar local rural service area of a not-for-profit organization owning and operating an essential community facility. A community may be a small city or town, county, or multi-county area depending on the type of essential community facility.

Guaranteed Loans

The purpose of CF guaranteed loan assistance is to improve, develop, or finance essential community facilities in rural areas. This purpose is achieved through bolstering the existing private credit structure through the guarantee of quality loans which will provide lasting community benefits. Guaranteed loans are loans made by the lender and guaranteed by the Rural Housing Service. The processing of the loan and requirements placed on the organization receiving the loan are the lender's responsibility.

CF Grants

Grant funds may be used to assist in the development of essential community facilities in rural areas. Grants are targeted to the neediest communities that meet population criteria for loans and have a median household income below the higher of the poverty rate or 90 percent of the State

nonmetropolitan median household income. CF grant funds may not support more than 75 percent of the facility's cost and are based on eligibility criteria and the feasibility of the project.

Administration

RHS authorizes, monitors, and provides funding for administration of CF loans and grants. The USDA Rural Development State, local, district and area offices monitor and evaluate the progress of the CF programs.

Certification

Eligibility for CF direct and guaranteed loan assistance is based on: (a) the type of organization applying for the loan (public body, non-profit organization, or Federally recognized Indian tribe); (b) whether the applicant can demonstrate that it is unable to finance the proposed project from its own resources or from commercial credit at reasonable rates and terms; (c) whether the applicant has authority to develop, own, and operate the proposed facility; and (d) whether the applicant can legally borrow money and make payments on debts obligated.

Grant assistance may be provided to entities located in eligible rural areas with populations of up to 20,000 and where the median household income of the service area is below the higher of the poverty line or 90 percent of the State nonmetropolitan median household income. Priority is given to applicants located in communities of 5,000 or less and where the median household income of the population to be served by the proposed facility is below the higher of the poverty line or 60 percent of the State nonmetropolitan median household income.

Assessing Need

Applicants must have the legal authority to borrow and repay loans, pledge security for loans, and construct, operate, and maintain the facility. They must also be financially sound and able to organize and manage the facility effectively. Repayment of the loan must be based on tax assessments, revenues, fees, or other sources of money sufficient for operation and maintenance of reserves and debt retirement. Grant assistance is based on the minimum amount sufficient for feasibility of the facility.

Source of Governing Requirements

The program is authorized under the Consolidated Farm and Rural Development Act of 1972. The program laws for CF direct and guaranteed loans are 7 USC 1926(a)(1) and for CF grants 7 USC 1926(a)(19).

Implementing regulations are:

Direct Loans	7 CFR part 1942
Guaranteed Loans	7 CFR part 3575
Grants	7 CFR part 3570.

III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Community Facilities Direct Loans, Guaranteed Loans, and Grants* - Funds may be used to construct, enlarge, or improve essential community facilities providing essential service primarily to rural residents and rural businesses. Examples of essential community facilities are health services; community, social and cultural services; transportation facilities such as streets, roads, and bridges; hydroelectric generating facilities; and recreation facilities (guaranteed loans only). The projects (including costs) are described in a project summary prepared by USDA Rural Development (7 CFR sections 1942.17(d), 3575.24 and 25, and 3570.61(b)).
2. *Unallowed Activities* - Loan funds may not be used to finance: (a) on-site utility systems or businesses; (b) industrial buildings in connection with industrial parks; (c) community antenna television services; (d) electric generation except for hydroelectric or transmission facilities and telephone systems; (e) facilities which are not modest in size, design, or cost; and (f) loan or grant finders fee (7 CFR sections 1942.17(d)(2)) and 3575.24).
3. *Community Facility Guaranteed Loans* - Guaranteed funds may be used to pay the expenses that are part of the loan. Funds are used to pay reasonable fees and costs associated with the loan, interest on loans until the facility is self-supporting, and the costs of acquiring interest in land and rights. Funds may also be used to purchase or lease equipment, pay initial operating expenses, refinance debts, and pay obligations for construction incurred before issuance of conditional commitment (7 CFR section 3575.24).

L. Reporting Requirements

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271 - *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272 - *Federal Cash Transaction Report* - Not Applicable

- e. Form RD 442-2, *Statement of Budget, Income and Equity (OMB No. 0575-0015)*. This report covers financial operations relating to the borrower's CF project.
- f. Form RD 442-3, *Balance Sheet (OMB No. 0575-0015)*. This report presents the financial status of the borrower's CF project.

2. Performance Reporting - Not Applicable

3. Special Reports - Not Applicable

IV. OTHER INFORMATION

Interim Financing

After RHS has made a commitment on the loan, the borrower may obtain interim financing from commercial sources (e.g., a bank loan) during the construction period (7 CFR section 1942.17(n)(3)). Expenditures from these commercial loans which will be repaid from a CF loan should be considered Federal awards expended, included in determining Type A programs, and reported in the Schedule of Expenditures of Federal Awards.

Years After Project Completion

In years after the program funds are expended and construction is completed, and the only ongoing financial activity of the program is the payment of principal and interest on outstanding balances, the prior loan (including loan guarantees) balances are not considered to have continuing compliance requirements under OMB Circular A-133 section ___.205(d). Prior loans which do not have continuing compliance requirements other than to repay the loans are not considered Federal awards expended and therefore are not required to be audited under OMB Circular A-133.

However, this does not relieve the non-Federal entity to file financial reports (which are not required to be audited) or otherwise comply with program requirements (e.g., maintaining insurance, depositing funds in federally insured banks, obtaining prior approval for sales of the facility).

DEPARTMENT OF COMMERCE**CFDA 11.300 GRANTS FOR PUBLIC WORKS AND ECONOMIC
DEVELOPMENT
CFDA 11.307 ECONOMIC ADJUSTMENT ASSISTANCE****I. PROGRAM OBJECTIVES**

Public Works and Economic Development grants are awarded to assist the Nation's distressed communities: (1) revitalize and expand their physical and economic infrastructure and (2) provide support for the creation or retention of jobs for area residents by helping eligible recipients with their efforts to promote the economic development of their local economies. The primary focus is on the creation of new, or the retention of existing, long-term private sector job opportunities in communities experiencing significant economic distress as evidenced by high unemployment, low income, or a special need arising from actual or threatened severe unemployment or severe changes in local economic conditions.

The objective of Economic Adjustment Program is to address the needs of communities experiencing adverse economic changes that may occur suddenly or over time, including but not limited to those caused by military base closures or realignments, depletion of natural resources, Presidentially-declared disasters or emergencies, or international trade. Economic Adjustment grants may be used to pay for developing a strategy to alleviate long-term economic deterioration or a sudden and severe economic dislocation, or to pay for a project in implementation of that strategy, including grants for construction and grants for Revolving Loan Funds (RLFs). Economic Adjustment grants may be spent directly by the grantee or redistributed to other entities.

II. PROGRAM PROCEDURES

Economic Development Administration (EDA) grant awards contain mandatory requirements and information vital to the accomplishment of the project. The recipient must adhere to the scope of work described in the award or award amendments.

EDA grants to capitalize or recapitalize RLFs are most commonly used for business lending, but may also be established for public infrastructure lending or other authorized purposes involving lending. RLF recipients must manage RLFs in accordance with an RLF Plan approved by EDA. For RLF recipients other than States, the RLF plan must be approved by the organization's governing board; however, political subdivisions of States may be exempted from this requirement with EDA approval. RLF recipients are responsible for ensuring that borrowers are aware of and comply with the applicable Federal statutory and regulatory requirements.

Source of Governing Requirements

The programs are authorized by the Public Works and Economic Development Act of 1965, as amended, 42 USC 3121 *et seq.* Implementing regulations are 13 CFR part 300 *et seq.*

Availability of Other Program Information

Other program information is available on the Internet at www.doc.gov/eda/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Activities Allowed

The grant budget and grant agreement will specify the purpose for use of funds which include the following:

- a. Construction grants can be made for the acquisition or development of land and improvements for use for a public works, public service, or development facility. Construction grants can also be made for the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such a facility, including related machinery and equipment (42 USC 3141; 42 USC 3149; and 13 CFR section 305.2(a)).
- b. RLF grants may be made for the establishment or recapitalization of an RLF, usually for business lending, but RLF grants may also be established for public infrastructure lending or other authorized purposes involving lending (42 USC 3149 and 13 CFR section 308.7).
- c. Other activities that can be funded under the Economic Adjustment program (in addition to grants for construction and RLFs) are grants for strategies and grants for implementation which include market or industry research and analysis, technical assistance, public services, training; and other activities as justified by the strategy which meet statutory and regulatory requirements (42 USC 3149 and 13 CFR section 308.3(a)).

2. Activities Unallowed

RLF capital may not be used to:

- a.. Acquire an equity position in a private business (13 CFR section 308.18(b)(1)).
- b. Subsidize interest payments on an existing loan (13 CFR section 308.18(b)(2)).

- c. Provide the equity contribution required of borrowers under other Federal loan programs (13 CFR section 308.18(b)(3)).
- d. Enable an RLF borrower to acquire an interest in a business unless there is a sufficient justification and documentation showing the need for RLF financing (13 CFR section 308.18(b)(4)).
- e. Provide loans to a borrower for the purpose of investing in interest bearing accounts, or other investments not related to the objectives of the RLF (13 CFR section 308.18(b)(5)).
- f. Refinance existing debt unless special limited circumstances exist (13 CFR section 308.18(b)(6)).
- g. Finance any activity that serves to relocate jobs from one commuting area to another (13 CFR section 308.18(b)(7)).

C. Cash Management

1. Disbursement of funds for construction grants are generally made on a reimbursable basis on request of the recipient for reimbursement. Disbursements may be made only after the execution of all contracts required for the completion of the project unless EDA has waived this requirement. Disbursements shall be made on the basis of the work accomplished and the percentage of EDA participation, but in no event for more than the total sum stated in the financial assistance award accepted by the grantee (13 CFR section 305.24).
2. An RLF recipient must request disbursement from EDA only at the time and in the amount immediately needed to close a loan or disburse funds to a borrower. As each new loan is made, the RLF recipient may request disbursement of grant funds only for the difference between the amount of funds available for relending (from repayments of loan principal and RLF income) and the amount of the new loan, less the amount of required matching funds. However, RLF income received during the grant period may be held to cover eligible administrative expenses and need not be applied to new loans in order to draw down additional grant funds (13 CFR section 308.16).

F. Equipment and Real Property Management (Construction Grants)

Property acquired or improved with grant funds for construction projects cannot be mortgaged or otherwise encumbered, except to secure a grant or loan made by a State, other Federal agency or other public body participating in the same project, unless a waiver has been approved by EDA (13 CFR section 314.6).

G. Matching, Level of Effort, Earmarking**1. Matching**

Matching requirements for construction and RLF grants are set forth in the grant agreement along with the total project cost and grant amount. The Federal share percentage is generally 50 percent, but can exceed such amount up to and including 100 percent under certain circumstances (42 USC 3144, 3145 and 3146; 13 CFR section 301.4).

2. Level of Effort - Not Applicable**3. Earmarking - Not Applicable****L. Reporting****1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Form ED-113 (OMB No. 0610-0096) which contains substantially the same information is used in lieu of the SF-271.
- d. SF-272, *Federal Cash Transactions Report* - Applicable
- e. *Semi-Annual Report For EDA-Funded RLF Grants*, (OMB No. 0610-0095)- All RLF recipients must submit semi-annual reports, unless they have qualified for annual report status, which include a certification that the RLF is being operated in accordance with the RLF plan (13 CFR section 308.14).
- f. *RLF Income and Expense Statement* (OMB No. 0610-0095) - Grant recipients electing to use 50 percent or more or at least \$100,000 of RLF income to cover all or part of an RLF's administrative expense must annually complete an "RLF Income and Expense Statement" (13 CFR section 308.14).

2. Performance Reporting - Not Applicable**3. Special Reporting - Not Applicable**

M. Subrecipient Monitoring

Public Works and Economic Development grants (CFDA 11.300) may not be subgranted. Economic Adjustment grants (CFDA 11.307) may be spent directly by the grantee or subgranted to other eligible entities (13 CFR section 308.3(b)).

N. Special Tests and Provisions**1. Increases to RLF Capital Base**

Compliance Requirement - RLF income includes all interest earned on outstanding loan principal, interest earned on accounts holding idle RLF funds, loan fees and other loan-related earnings. RLF income does not include repayment of RLF loan principal. In accounting for RLF income, any proceeds from the sale, collection, or liquidation of a defaulted loan, up to the amount of the unpaid principal, will be treated as repayments of RLF principal and placed in the RLF for lending purposes only. Any proceeds in excess of the unpaid principal will be treated as RLF income (13 CFR sections 308.8 and 308.12(c)).

RLF income earned in the 12-month reporting period may be used for RLF administrative expenses of the same period or for lending. Any RLF income remaining at the end of the 12-month reporting period must be permanently added to the RLF's capital base to be used for lending. RLF income may not be withdrawn from an RLF in a subsequent period for any uses, other than lending, without the written consent of EDA (CFR sections 308.8, 308.12(a), and (b)).

Repayments of principal on RLF loans must be placed in the RLF for relending (13 CFR section 308.16(f)(3)).

Audit Objective - Determine whether RLF income not used for administrative expenses has been added to the RLF capital base for lending and whether repayments of principal on RLF loans were placed in the RLF for relending.

Suggested Audit Procedures

- a. Verify that the amounts recorded in the financial records include RLF income and repayments of principal on RLF loans.
- b. Ascertain if RLF income not used for administrative expenses has been added to the RLF capital base.
- c. Ascertain if repayments of principal on RLF loans have been placed in the RLF.

2. Loan Requirements

Compliance Requirements - The following requirements apply to RLF loans:

- a. RLF recipients are required to retain standard RLF loan documents necessary for lending. These documents must be reviewed by RLF legal counsel for adequacy and compliance with the terms and conditions of the grant and applicable laws. The standard loan documents must include: (1) loan application, (2) loan agreement, (3) promissory note, (4) security agreement, (5) deed of trust or mortgage (if applicable), (6) agreement of prior lien holder (if applicable), and (7) personal guaranty agreement (for officers or owners of corporate borrowers, as applicable) (13 CFR section 308.15(b)).
- b. The financed activity must be located in an eligible lending area as defined in the special terms and conditions of the grant award (13 CFR section 308.11).
- c. Unless otherwise provided for in the grant agreement or modified in writing by EDA, a borrower is not eligible for RLF financing if credit is otherwise available on terms and conditions that permit the completion or successful operation of the project activity to be financed. The RLF recipient is responsible for determining that each borrower meets this requirement and for documenting the basis for its determination in the loan write-up (13 CFR section 308.18(c)).

Audit Objective - Determine whether (1) the required standard loan documents were completed for the RLF loans, (2) the financed activity is located in an eligible area, and (3) there is documentation to support that credit was not otherwise available to the borrower.

Suggested Audit Procedures

Test a sample of loan files and ascertain if:

- a. The standard loan documents were properly completed.
- b. The financed activity is located in an eligible area.
- c. The RLF determination that credit was not otherwise available to the borrower is documented in the file.

IV. OTHER INFORMATION (RLF)

For the RLF part of the program, calculation of Federal awards expended for determining when an audit is required under OMB Circular A-133 and determining Type A programs shall consider the following:

1. Balance of RLF loans outstanding at the end of the fiscal year, plus
2. Cash and investment balance in the RLF at the end of the fiscal year; plus
3. Administrative expenses paid out of RLF during the fiscal year.

Only the Federal share (exclude the matching fund share) of the RLF shall be used in this determination. Federal awards expended for the RLF part of this program shall be added to other Federal awards expended to determine total Federal awards expended for the program.

DEPARTMENT OF DEFENSE**CFDA 12.401 NATIONAL GUARD MILITARY OPERATIONS AND MAINTENANCE (O&M) PROJECTS****I. PROGRAM OBJECTIVE**

The Department of Defense (DoD) enters into cooperative agreements (CA) for Army National Guard (ARNG) Real Property Operations & Maintenance Activities (RPOMA) and Air National Guard (ANG) Facility Operations & Maintenance Activities (FOMA) with States to provide Federal support for services provided by the State Military Departments for authorized facilities for leases, real property services, real property maintenance and repair, operations and maintenance (O&M), and minor construction costs (NGR 5-1/ANGI 63-101).

II. PROGRAM PROCEDURES

The DoD National Guard Bureau (NGB) enters into a CA with a State when NGB transfers something of value, through funding or otherwise, to the State to support the State ARNG RPOMA and ANG FOMA instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the ARNG or ANG and substantial involvement is expected between the NGB and the State when carrying out the activity contemplated in the agreement (NGR 5-1/ANGI 63-101, chapter 1-1).

Generally, a CA consists of two parts, the agreement and appendices (Master Cooperative Agreement (MCA) and as many Appendices as apply to that State). Policies and procedures to be followed for cooperative agreements with States are contained in "National Guard Grants and Cooperative Agreements" NGR 5-1/ANGI 63-101. The MCA includes standard terms and conditions applicable to all Appendices under the MCA and the required signatures of the parties. There will be a separate Appendix for each CA functional area applicable to the State. Each Appendix shall contain terms and conditions, allowable costs, reports, approved budget, management controls, and administrative information applicable only to that functional area (NGR 5-1/ANGI 63-101, chapter 2-1).

The Adjutant General (TAG) and the United States Property & Fiscal Officer (USPFO) are responsible for the execution of the MCA and Appendices. A CA is the means of providing all financial assistance and other support to States for the operation of the National Guard except for financial assistance and support provided under separate authority (e.g., military and technician pay and the military supply system). Single purpose CAs will specify the responsible parties (NGR 5-1/ANGI 63-101, chapter 2-1).

The sum of Federal reimbursements and program income may not exceed the requirements listed for each program in the approved budget. The State Military Department must have prior written USPFO approval of an amended budget before it may request a reimbursement or receive program income that would bring its receipts above the maximum program funding level. Funding transfers into the RPOMA (chapter 13-1e) or FOMA (chapter 33-1d) programs or funding transfers within each program do not require prior written approval of the appropriate NGB program managers. However, funding may not be transferred from the RPOMA (chapter

13-1d) or FOMA (chapter 33-1c) programs without the prior written approval of the relevant NGB program manager.

Availability of Other Program Information

The National Guard Internal Review Office (which reports to the USPFO) can provide information about risk assessments and audits performed by their office which may be helpful in planning the audit. Contact Vincent Latona, National Guard Headquarters Internal Review Office, at 703-607-0476 (direct) and 703-607-0730 (main) or by e-mail to latonav@ngb.ang.af.mil. for information on the Internal Review Offices for a particular state.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowable

1. Federal funding under the CA shall be on a requirements basis within Federal budget limitations and funding availability. Funding shall be provided to support those items designated in the CA or facilities authorized support in the Facilities Inventory and Support Plan (FISP). Facilities used in excess of those authorized shall be supported with other than Federal funds (NGR 5-1/ANGI 63-101 chapters 13-5a, 33-5a, 33-3a(1)).
2. RPOMA (NGR 5-1/ANGI 63-101 chapter 13-5c) and FOMA (NGR 5-1/ANGI 63-101 chapter 33-3a) Appendix support shall be provided within available funding limitations for authorized facilities and supporting elements such as sidewalks, fire hydrants, gasoline and diesel fuel dispensing systems, flammable materials buildings, roads, utilities systems, fencing and hard stand. Maintenance and repair, real property services, and minor construction support is provided for space or facilities as detailed in the NGR 5-1/ANGI 63-101 chapter 13 and 33.
3. Unallowable activities are those activities that are described as unauthorized charges and detailed in the NGR 5-1/ANGI 63-101, chapters 13-6 and 33.6.

B. Allowable Costs/Cost Principles

1. *Budget* - Costs must be in accordance with any restrictions, limitations, or instructions contained in the CA budget (NGR 5-1/ANGI 63-101, chapter 13-4 and 33-4).
2. *Indirect costs are unallowable* - Indirect costs, except fringe benefits, are unallowable (NGR 5-1/ANGI 63-101, chapter 5-4).

3. *Employee compensation* - Individual employee compensation comprises a significant portion of total costs charged to CA appendices. The auditor should give particular attention to the allocability of these costs. The distribution of individual employee compensation to projects must follow applicable Federal cost principles, NGR 5-1/ANGI63-101, and the terms and conditions in agreement appendices. Therefore, the auditor's testing should include tests of the time and effort reporting system to support the distribution of compensation costs.
4. *Fringe benefits* - Fringe benefits for which the State does not bill the State Military Department directly, such as workmen's compensation, unemployment compensation, State sponsored life and health insurance, and retirement benefits are allowable if they are part of the State's Central Service Cost Allocation Plan approved by the Department of Health and Human Services (HHS). However, for these costs to be reimbursable, all of the following conditions have to be met (NGR 5-1/ANGI 63-101 chapter 5):
 - a. The individual cost items have to be reimbursable under the terms of individual appendices.
 - b. Fringe benefit costs for which the State does not bill the State Military Department directly shall be reimbursable by applying a fringe benefit rate to the costs of actual salaries paid to employees.
 - c. Fringe benefits which are neither direct costs nor included in the billed central services section of the State's Central Service Cost Allocation Plan approved by HHS are not reimbursable.

D. Davis-Bacon Act

The Davis-Bacon Act applies to that portion of the remedial work which calls for excavation, substantial earth moving, removal of contaminated soil, and the actual mobilization of the incinerator followed by restoration of the landscape, regardless of whether such activities are performed with any other construction activities done any buildings or other structures at the cleanup site (NGR 5-1/ANGI 63-101 chapter 14-1d).

Site clearing, when performed as part of demolition work or the dismantling of buildings or other structures is subject to the Davis-Bacon Act if the clearing of the site is to be followed by the construction of a public building or public work at the same location (NGR 5-1/ANGI 63-101, Chapter 14-1d).

G. Matching, Level of Effort, Earmarking

1. Matching

The rate of reimbursement to the State for all authorized charges, unless expressly stated otherwise, shall be based on the FISP support code for the facility generating the expenditure. For example, employee, repair, supplies, equipment,

utility, etc. costs directly and exclusively associated with a facility authorized 75 percent support shall be reimbursed to the State Military Department 75 percent. Costs that are generated for facilities that are authorized at several different support levels shall be reimbursed at a rate that reflects the actual level of effort. However, nothing shall preclude the State Military Department from requesting reimbursement at a rate less than what is authorized (NGR 5-1/ANGI 63-101, chapter 13-5).

2. **Level of Effort** - Not Applicable
3. **Earmarking** - Not Applicable

H. Period of Availability of Federal Funds

1. National Guard Operations and Maintenance agreements are funded with one year appropriations and, as such, obligations may not be incurred against Federal funds for a specified year before or after the Federal fiscal year in which the funds were appropriated (NGR 5-1/ANGI 63-101, chapters 12-1, 12-6, 32-1, and 32-6).
2. A CA shall be executed by the USPFO and the TAG prior to any request for reimbursement or advance payment. The State shall also have an approved Appendix covering each functional area for which the reimbursement or an advance is requested. The State shall not request reimbursement for any expenditures it made before the date that all required parties execute the MCA and the covering Appendices unless the MCA or appropriate Appendix expressly authorize expenditures made during the funding period, but prior to the date of final signature (NGR 5-1/ANGI 63-101, chapter 2-1).
3. Work or task performance must serve a bona fide need that exists in the fiscal year in which the work or tasking is issued; otherwise, a valid obligation is not accomplished. It is not intended that the rule of bona fide need of the fiscal year rule be construed to preclude lead time. Thus, where materials, for example, cannot be obtained in the same fiscal year in which they are needed, a provision for delivery in the subsequent fiscal year does not violate the bona fide need rule so long as the time intervening between placing of the order and delivery is not excessive and the work order is not for standard commercial items readily available from other sources. Bona fide need generally is a determination of the NGB activity and not that of the State performing the activity. The State shall prepare and the USPFO shall review and approve a bona fide need determination (NGR 5-1/ANGI 63-101, chapter 2-2b) and finding to reflect this need. A State performing the activity should, however, refuse to accept a work order if it is obvious that the work order does not serve a need existing in the fiscal year in which issued (NGR 5-1/ANGI 63-101, chapter 2-2).

J. Program Income

Program income in NGB CA shall mean the gross income, received by a recipient from fees for services performed and from the use, rental, or sale of real or personal property, the operation and maintenance of which is supported under the CA. The following exceptions are applicable (NGR 5-1/ANGI 63-101, chapter 7):

1. Income received from the use or rental of State-owned, Federally-supported armories is not program income. However, the State must fulfill its obligations under 10 USC 18236(c) on the use of these funds. 10 USC 18236(c) permits States to rent out armories if the State uses the rental income to maintain the armory. In addition, as a condition for continued Federal support, the State must increase its contribution to the agreement by at least the amount of all Identifiable Incremental Costs (IIC), as defined in NGR 5-1/ANGI 63-101, chapter 7-3c(4), for which it receives Federal support (e.g., utilities).
2. Reimbursements made to NGB by another Federal agency for the use of an NGB supported National Guard facility are not program income but are considered to be direct reimbursement of costs incurred. However, they may increase the maximum funding limitations of the appropriate appendices to the CA.
3. Amounts paid directly to a State Military Department by a Federal agency, a State agency, or any other user for the use of a State Military Department owned, leased, or licensed real property (exclusive of armories) or equipment acquired or supported under an NGB CA pursuant to a direct relationship between the Federal or State agency, or other user and the State Military Department are program income.

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.157 SUPPORTIVE HOUSING FOR THE ELDERLY (SECTION 202)****I. PROGRAM OBJECTIVES**

The objective of Supportive Housing for the Elderly is to provide Federal capital advances and project rental assistance under Section 202 of the National Housing Act of 1959 for development of housing projects serving elderly households.

II. PROGRAM PROCEDURES**Prior to 1991 - Elderly and Disabled***Loans*

Prior to 1991 the Department of Housing and Urban Development (HUD) provided direct loans to finance the construction or rehabilitation of supportive housing for the elderly and disabled, including the cost of real property acquisition, conversion, demolition, relocation, and other related expenses.

Assistance

The project-based rental assistance is provided under Section 8 (not part of this CFDA 14.157) and is the calculation of project operating costs including debt servicing. Hence, the rental assistance includes payments to principal and interest on the direct loan. The Fair Market Rent (FMR) is used as an upper limit constraint on the amount of rental assistance. Generally, the rental assistance may not exceed FMR; unless the project obtains HUD approval to apply a factor of up to 120 percent of gross rent.

The borrower receives assistance from HUD on vacant rental assistance units at a rate 80 percent of the contract rent under for the first 60 days of vacancy, given certain conditions are met (24 CFR section 891.650). For vacancies exceeding 60 days, the owner may apply for payment in an amount equal to the debt servicing principle and interest payments required to amortize that portion of the debt service attributable to the vacant unit (24 CFR section 891.650).

Subsequent to 1990 - Elderly Only*Capital Advances*

After 1990, under Pub. L. No. 101-625 (November 28, 1990), HUD capital advances replaced the direct loan method of funding project construction and the assistance to projects for the disabled were moved to CFDA 14.181 Supportive Housing for Persons with Disabilities (Section 811). The capital advances are awarded to non-profit organizations and are used to finance the construction or rehabilitation of supportive housing for the elderly, including the cost of real property acquisition, conversion, demolition, relocation, and other related expenses.

The owner-entity is required to put up a minimum capital investment under the capital advance program. This amount is one-half of one percent of the HUD-approved capital advance. The owner's investment may not exceed \$10,000, or \$25,000 if the owner has a national sponsor or co-sponsor (24 CFR section 891.145).

The amount of the capital advance approved by HUD may not exceed an appropriate development cost limit, determined by HUD. Owners incurring total development costs under this limit may retain 50 percent of this difference, which is required to be deposited into a reserve for replacement account. A 75 percent retention is allowed, where the owner adds energy efficiency features (24 CFR section 891.140).

No repayment is required under the Capital Advance Program so long as the owner complies with the Regulatory Agreement with HUD to make available rental housing to very low income elderly persons for 40 years (24 CFR section 891.170).

Rental Assistance

The project-based rental assistance is provided under a Project Rental Assistance Contract (PRAC) and is calculated based on operating cost standards established by HUD (24 CFR 891.150). The owner submits monthly vouchers to HUD for payment of rental assistance. The total amount of assistance equals total HUD-approved operating expenses for the project minus the tenant payments received for all units (PRAC paragraph 2.4(f)(1)).

Tenants are generally required to pay rent which is the highest of 30 percent of adjusted gross income, 10 percent of gross income, or the portion of welfare assistance designated to meet housing costs (42 USC 1437a).

The owner receives assistance from HUD on vacant rental assistance units at a rate of 50 percent of Operating Expense for a unit under PRAC (PRAC paragraph 2.4 b) for the first 60 days of vacancy, given certain conditions are met (24 CFR section 891.445).

Source of Governing Requirements

This program is authorized under Section 202 of the Housing Act of 1959, as amended, which is codified at 12 USC 1701q. Implementing regulations for this program are 24 CFR part 891, subparts A, B, and D.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a federal program, the auditor should first look to Part 2, Matrix of Compliance requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed and Unallowed

1. The project shall provide the necessary services for the occupants which may include, but not limited to: health, education, welfare, informational, recreational, homemaking, meals, counseling, and referral services (12 USC 1701q; 24 CFR sections 891.225 and 891.500).
2. Project funds may be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the Regulatory Agreement between HUD and the project owner.
3. Project facilities may not include infirmaries, nursing stations, or spaces for overnight care (24 CFR section 891.220).
4. Project must be modest in design and as such, the following are not to be funded with capital advance funds; individual unit balconies or decks, dishwashers, washers, dryers, trash compactors, swimming pools, saunas, jacuzzis. Sponsors may include certain excess amenities but these must be paid for with other than capital advance funds. Associated operating costs must also be paid for by sources other than the project rental assistance contract (24 CFR section 891.120).

E. Eligibility**1. Eligibility for Individuals**

Section 202 (CFDA 14.157) of the National Housing Act was designed to provide housing for the elderly and disabled (prior to 1991). Section 811 (CFDA 14.181) of The National Housing Act was created to provide separate funding for housing for persons with disabilities (subsequent to 1990).

To qualify as elderly, one or more members of the household must be 62 years of age or more at the time of initial occupancy (24 CFR section 891.205).

To qualify as disabled (prior to 1991 Section 202's), the household must consist of at least one person who is an adult (18 years or older) with a disability, two or more persons with disabilities living together, or a surviving household member under certain circumstances (42 USC 1437a(b)(3); 24 CFR section 891.505).

Very low-income eligibility applies to the elderly subsequent to 1990 and the owner is responsible to annually reexamine incomes for households occupying assisted units or residential space and make appropriate adjustments to the tenant payment and the project rental assistance payment (24 CFR section 891.410). Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

2. Eligibility of Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

N. Special Tests & Provisions

1. Use of Project Funds

Compliance Requirements - Owners are required to establish and maintain a separate project account in Federally-insured depository. All rents, charges, income, and revenues arising from the project operation shall be deposited into this account. Project funds must be used for the operation of the project (including required insurance coverage), to make required principal and interest payments on the Section 202 loan, and to make required deposits to replacement reserve and the residual receipts accounts (24 CFR sections 891.400(e) and 891.600(e)).

Audit Objectives - Determine whether the project fund was properly established, required deposits were made into this fund, and disbursements were only for allowed purposes.

Suggested Audit Procedures

- a. Ascertain if the project funds receipts account has been established in a Federally-insured depository.
- b. Perform tests to ascertain if all rents, charges, income, and revenues arising from the project operation were deposited into the fund.
- c. Test a sample of disbursements from the fund ascertain if they were used only for the operation of the project or to make required deposits to the replacement reserve or the residual receipts account.

2. Replacement Reserve

Compliance Requirements - Owners shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in a Federally-insured depository in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve. An amount as required by HUD will be deposited monthly in the reserve fund (Regulatory Agreement, item 5 A). All disbursements from the reserve must be approved by HUD (24 CFR sections 891.405 and 891.605).

Audit Objectives - Determine whether the replacement reserve was properly established, required monthly deposits were made, and disbursements were only for HUD approved purposes.

Suggested Audit Procedures

- a. Ascertain if a replacement reserve account has been established in a Federally-insured depository in an interest bearing account.
- b. Ascertain if the required monthly deposits have been made to the replacement reserve account.
- c. Ascertain if interest earnings from the reserve were retained in the replacement reserve account.
- d. Test a sample of disbursements from the replacement reserve account and ascertain if they were approved by HUD and were made for the approved purpose.

3. Residual Receipts Account

Compliance Requirements - Any funds in the project funds account (including earned interest) at the end of the fiscal year shall be deposited in a Federally-insured account within 60 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD (24 CFR sections 891.400(e) and 891.600(e)).

Audit Objectives - Determine whether the residual receipts account was properly established, the required deposit was made within 60 days following year end, and disbursements were only for project purposes and the approval of HUD.

Suggested Audit Procedures

- a. Ascertain if residual receipts account has been established in a Federally-insured depository.
- b. Ascertain if the required annual deposit was made within 60 days following year end.
- c. Test a sample of disbursements from the residual receipts account and ascertain if they were used for project purposes and approved by HUD.

IV. OTHER INFORMATION

To protect its interest in a capital advance, HUD requires a note and mortgage, generally for a 40 year term. The owner is not required to repay the principal or pay interest and the note is forgiven at maturity, as long as the owner provides housing for the designated class of people in accordance with applicable HUD requirements. However, the full outstanding balance on the note should be considered Federal awards expended, included in determining Type A programs, and reported as loans on the Schedule of Expenditures of Federal Awards or accompanying notes in accordance with OMB Circular A-133.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.181 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES
(SECTION 811)****I. PROGRAM OBJECTIVES**

The objectives of Supportive Housing for Persons with Disabilities are to: (1) provide Federal capital advances under Section 811 of the National Affordable Housing Act (NAHA) for development of housing projects serving persons with disabilities; and (2) provide tenant-based rental assistance to low income persons with disabilities for payment of housing on the private market.

II. PROGRAM PROCEDURES**Capital Advances**

After 1990, under Public Law 101-625 (November 28, 1990), HUD capital advances replaced the direct loan method of funding project construction under the Section 202 of the National Housing Act (NHA) (12 USC 1702 *et seq*). Section 811 of NAHA was created as a separate program for the development of housing for persons with disabilities. Capital advances are awarded to non-profit organizations and are used to finance the construction or rehabilitation of supportive housing for persons with disabilities (24 CFR section 891.300).

No repayment is required under the Capital Advance Program as long as the owner complies with the Regulatory Agreement with HUD to make available rental housing to very low income persons with disabilities for at least 40 years. Any change in ownership during the 40 year period must be approved by HUD (24 CFR section 891.170).

Rental Assistance

Project rental assistance is used to cover the difference between the HUD approved operating costs of the project and the tenants' contributions toward rent (24 CFR section 891.410).

Project rental assistance is provided under a Project Rental Assistance Contract (PRAC) and is calculated based on operating cost standards established by HUD (24 CFR section 891.150). The owner submits monthly vouchers to HUD for payment of rental assistance. The total amount of assistance equals total HUD-approved operating expenses for the project minus the tenant payments received for all units (PRAC paragraph 2.4(f)(1)).

Tenants are generally required to pay rent in accordance with the Housing Assistance Payment Contract.

The owner receives assistance from HUD on vacant rental assistance units at a rate of 50 percent of Operating Expense for a unit under PRAC (PRAC paragraph 2.4b) for the first 60 days of vacancy, given certain conditions are met (24 CFR section 891.445).

Source of Governing Requirements

This program is authorized under Section 811 of the National Affordable Housing Act (42 USC 8013). Implementing regulations for this program are 24 CFR part 5, subpart H, and part 891, subparts A, C, and D.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a federal program, the auditor should first look to Part 2, Matrix of Compliance requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed and Unallowed

1. Project funds may be used only for expenses that are reasonable and necessary to the operation of the project as provided for in the Regulatory Agreement between HUD and the project owner (24 CFR section 891.400(e)).
2. Project facilities may not include infirmaries, nursing stations, spaces dedicated to the delivery of medical treatment or physical therapy, padded rooms, or space for respite care or sheltered workshops, even if paid for from sources other than the HUD capital advance. Except for office space used by the owner exclusively for the administration of the project, project facilities may not include office space. (24 CFR section 891.315).
3. Project must be modest in design and as such, the following are not to be funded with capital advance funds; individual unit balconies or decks, dishwashers, washers, dryers, trash compactors, swimming pools, saunas, jacuzzis. Sponsors may include certain excess amenities but these must be paid for with other than capital advance funds. Associated operating costs must also be paid for by sources other than the project rental assistance contract (24 CFR section 891.120).

E. Eligibility

1. Eligibility for Individuals

Section 202 (CFDA 14.157) of the National Housing Act was designed to provide housing for the elderly and disabled (prior to 1991). Section 811 (CFDA 14.181) of the National Housing Act was created to provide separate funding for housing for persons with disabilities (subsequent to 1990) (42 USC 8013).

To qualify as disabled (prior to 1991 Section 202), the household must consist of at least one person who is an adult (18 years or older) with a disability, two or more persons with disabilities living together, or a surviving household member under certain circumstances (42 USC 1437a(b)(3); 24 CFR section 891.505).

Very low-income eligibility applies to persons with disabilities subsequent to 1990 and the owner is responsible to annually reexamine incomes for households occupying assisted units or residential space and make appropriate adjustments to the tenant payment and the project rental assistance payment (24 CFR section 891.410). Assistance applicants shall submit signed consent forms upon initial application and at reexamination (24 CFR section 5.230).

N. Special Tests & Provisions

1. Use of Project Funds

Compliance Requirements - Owners are required to establish and maintain a separate project account in Federally-insured depository. All rents, charges, income, and revenues arising from the project operation shall be deposited into this account. Project funds must be used for the operation of the project (including required insurance coverage), and to make required deposits to replacement reserve and the residual receipts accounts (24 CFR section 891.400(e)).

Audit Objectives - Determine whether the project fund was properly established, required deposits were made into this fund, and disbursements were only for allowed purposes.

Suggested Audit Procedures

- a. Ascertain if the project funds receipts account has been established in a Federally-insured depository.
- b. Perform tests to ascertain if rents, charges, income, and revenues arising from the project operation were deposited into the fund.
- c. Test a sample of disbursements from the fund to ascertain if they were used only for the operation of the project or to make required deposits to the replacement reserve or the residual receipts account.

2. Replacement Reserve

Compliance Requirements - Owners shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in a Federally-insured depository in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve. An amount as required by HUD will be deposited monthly in the reserve fund (Regulatory Agreement, item 5 (a)). All disbursements from the reserve must be approved by HUD (24 CFR section 891.405).

Audit Objectives - Determine whether the replacement reserve was properly established, required monthly deposits were made, and disbursements were only for HUD approved purposes.

Suggested Audit Procedures

- a. Ascertain if a replacement reserve account has been established in a Federally-insured depository in an interest bearing account.
- b. Ascertain if the required monthly deposits have been made to the replacement reserve account.
- c. Ascertain if interest earnings from the reserve were retained in the replacement reserve account.
- d. Test a sample of disbursements from the replacement reserve account and ascertain if they were approved by HUD and were made for the approved purpose.

3. Residual Receipts Account

Compliance Requirements - Any funds in the project funds account (including earned interest) at the end of the fiscal year shall be deposited in a Federally-insured account within 90 days following the end of the fiscal year. Withdrawals from this account may be made only for project purposes and with the approval of HUD (24 CFR section 891.400(e)).

Audit Objectives - Determine whether the residual receipts account was properly established, the required deposit was made within 90 days following year end, and disbursements were only for project purposes and the approval of HUD.

Suggested Audit Procedures

- a. Ascertain if residual receipts account has been established in a Federally-insured depository.
- b. Ascertain if the required annual deposit was made within 90 days following year end.
- c. Test a sample of disbursements from the residual receipts account and ascertain if they were used for project purposes and approved by HUD.

IV. OTHER INFORMATION

To protect its interest in a capital advance, HUD requires a note and mortgage, generally for a 40 year term. The owner is not required to repay the principal or pay interest and the note is forgiven at maturity, as long as the owner provides housing for the designated

class of people in accordance with applicable HUD requirements. However, the full outstanding balance on the note should be considered Federal awards expended, included in determining Type A programs and reported as loans on the Schedule of Expenditures of Federal Awards or accompanying notes in accordance with OMB Circular A-133.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.182 SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION****CFDA 14.195 SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM-- SPECIAL ALLOCATIONS****CFDA 14.856 LOWER INCOME HOUSING ASSISTANCE PROGRAM-SECTION 8 MODERATE REHABILITATION****I. PROGRAM OBJECTIVES**

The objective of the Section 8 rental assistance programs is to help eligible low-income families or individuals obtain decent, safe, and sanitary housing through a system of rental subsidies (24 CFR sections 880.101, 881.101, 882.401, 883.101, 884.101, 886.101, and 886.301).

II. PROGRAM PROCEDURES

Under this project-based cluster, the rental subsidy is tied to a specific unit and when a family moves from the unit, it has no right to continued assistance.

Certain project-based programs are administered by State, local, or other governmental entities qualifying as Public Housing Agencies (PHAs). The Department of Housing and Urban Development (HUD) enters into annual contributions contracts with PHAs which enter into Housing Assistance Payments (HAP) contracts with private owners. The owners rent housing to eligible low-income families who typically pay rent which is the highest of 30 percent of adjusted gross income, 10 percent of gross income, or the portion of welfare assistance designated to meet housing costs. The remaining portion of the rent for the unit is paid to the owner by the PHA or HUD through the HAP contract. The PHA is then reimbursed by HUD through the annual contributions contract. HUD also provides funds for PHA administration of the Section 8 programs.

PHAs are required to maintain a HAP contract register or similar record in which to record the PHA's obligation for monthly housing assistance payments. This record shall provide information as to: the name and address of the family; the name and address of the owner; dwelling unit size; the effective and expiration dates of the lease; the monthly contract rent payable to the owner; monthly rent payable by the family; and the monthly housing assistance payment. The record shall also provide data as to the date the family vacates and the number of days the unit is vacant, if any. This requirement is applicable to PHAs that are administering Housing Assistance Payments Program Projects pursuant to the provisions of Annual Contributions Contracts. It is not applicable to Section 8 projects on which HUD has executed a HAP contract directly with an owner or PHA.

The moderate rehabilitation program assists low income families in affording decent, safe and sanitary housing by encouraging property owners to rehabilitate substandard housing and lease the units with rental subsidies to low income families. The PHA and the owner execute an Agreement to Enter into Housing Assistance Payments Contract under which the owner agrees to rehabilitate the unit to be subsidized and the PHA agrees to subsidize the units upon satisfactory

completion of rehabilitation. Upon completion of the rehabilitation, the PHA and the owner execute a HAP contract. The PHA refers interested eligible families on its Section 8 waiting list to the owner to fill vacancies in moderate rehabilitation units.

The moderate rehabilitation program assistance is considered a project-based subsidy because the assistance is tied to specific units under an assistance contract with the owner for a specified term. A family that moves from a unit with project-based assistance does not have any right to continued assistance.

Source of Governing Requirements

The program is authorized by the U.S. Housing Act of 1937, as amended (42 USC 1437a, c, and f; 42 USC 3535(d); 42 USC 12701; and 42 USC 13611 through 13619). Implementing regulations are 24 CFR parts 880 through 884 and 24 CFR part 886.

Availability of Other Program Information

HUD maintains a home page on the Internet (www.hud.gov/hudprog.cfm) which provides general information about these programs.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

E. Eligibility

1. Eligibility for Individuals

- a. The PHA or owner, as applicable, must:
 - (1) Verify the eligibility of applicants by: (a) obtaining signed applications that contain the information needed to determine eligibility (including designation as elderly, disabled, or homeless, if applicable), income, rent and order of selection; (b) conducting verifications of family income and other pertinent information (such as assets, full time student and immigration status, and unusual medical expenses) through third parties; (c) document inspections and tenant certifications, as appropriate; and, (d) determining that tenant income did not exceed the maximum limit set by HUD for the PHA's jurisdiction, as shown in HUD's published notice transmitting the Limits for Low-Income and Very Low-Income Families Under the Housing Act of 1937 (24 CFR sections 880.603, 881.601, 882.514, 833.701, 884.214, 886.119, and 886.318)

- (2) Determine the total tenant rent payment in accordance with 24 CFR section 5.613.
- (3) Select participants from the waiting list in accordance with the admission policies in its administrative plan and maintain documentation which shows that, at the time of admission, the family actually met the preference criteria that determined the family's place on the waiting list (24 CFR sections 880.603, 881.601, 883.701, 884.214, and 886 subparts A and C).
- (4) Reexamine family income and composition at least once every 12 months and adjust the total rent payment and housing assistance payment, as necessary (24 CFR sections 5.617, 880.603, 881.601, 882.515, 884.218, 886.124, and 886.324).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

L. Reporting

1. Financial Reporting

- a. *SF-269, Financial Status Report - Not Applicable*
- b. *SF-270, Request for Advance or Reimbursement - Not Applicable*
- c. *SF-271, Outlay Report and Request for Reimbursement for Construction Program - Not Applicable*
- d. *SF-272, Federal Cash Transactions Report - Not Applicable*
- e. In lieu of the standard reports, the following reports are required on Section 8 project-based programs involving PHA/private-owners and HUD/PHA owners.
 - (1) *HUD-52663, Requisition for Partial Payment of Annual Contributions (OMB No. 2577-0169) - submitted quarterly.*
 - (2) *HUD-52681, Voucher for Payment of Annual Contributions and Operating Statement (OMB No. 2577-0169) - submitted annually.*
 - (3) *HUD-52595, Balance Sheet for Section 8 and Public Housing (OMB No. 2577-0169) - submitted annually.*

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. HUD-50058, *Family Report (OMB No.2577-0083)* - The PHA is required to submit this form electronically to HUD each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA's jurisdiction under portability.

For Family updates on or before March 31, 2001. Key Line Items - The following line items contain critical information:

- (1) Line 2a - *Type of Action*
- (2) Line 2b - *Effective Date of Action*
- (3) Lines 3b, 3c - *Names*
- (4) Line 3e - *Dates of Birth*
- (5) Line 3n - *Social Security Numbers*
- (6) Line 5a - *Unit Address*
- (7) Lines 5g, 5h - *Unit Inspection Dates*
- (8) Line 7m - *Total Annual Income*
- (9) Line 13h - *Contract Rent to Owner*
- (10) Line 13k or 13x - *Tenant rent*
- (11) Lines 2e and 16a - *Family's Participation in the Family Self-Sufficiency (FSS) Program*
- (12) Line 16d(2) - *FSS Account Balance*

For family updates after March 31, 2001. Key Line Items - The following line items contain critical information.

- (1) Line 2a - *Type of Action*
- (2) Line 2b - *Effective Date of Action*
- (3) Line 3b, 3c - *Names*
- (4) Line 3e - *Date of Birth*

- (5) Line 3n - *Social Security Numbers*
 - (6) Line 5a - *Unit Address*
 - (7) Line 5h, 5i - *Unit Inspection Dates*
 - (8) Line 7i - *Total Annual Income*
 - (9) Line 13h - *Contract Rent to Owner*
 - (10) Line 13k or 13x - *Tenant rent*
 - (11) Lines 2k and 17a - *Family's Participation in the Family Self Sufficiency (FSS) Program*
 - (12) Line 17k(2) - *FSS Account Balance*
- b. HUD-50059, *Owner's Certification of Compliance With HUD's Tenant Eligibility and Rent Procedures (OMB No. 2502-0204)* - This report is submitted electronically to HUD.

N. Special Tests and Provisions

1. Contract Rent Adjustments

Compliance Requirement -The PHA or owner applies or ensures annual adjustments to contract rents are applied. The HAP contract specifies the method to be used to determine rent adjustments. Adjustments must not result in material differences between rents charged for assisted units and comparable unassisted units except as those differences existed at contract execution. Special adjustments to contract rents may also be made to the extent deemed necessary by the PHA or HUD (24 CFR sections 880.609, 881.601, 882.410, 883.701, 884.109, 886.112, and 886.312).

Audit Objective - Determine whether contract rents are being adjusted properly.

Suggested Audit Procedures

- a. Review the procedures for applying annual adjustment factors and handling special adjustment requests.
- b. Select a sample of contracts and the related files with annual and special rent adjustments and test the supporting data and certifications that were submitted to support the adjustments.
- c. Review the selected HAP contract files or tenant files to verify that annual and special adjustments were applied correctly and that rent adjustments did not result

in material differences between the rents charged for assisted and comparable unassisted units.

2. Tenant Utility Allowances

Compliance Requirement - The PHA or owner must establish or ensure tenant utility allowances based on utility consumption and rate data for various sized units, structure types and fuel types and make an annual review of tenant utility allowances to determine their reasonableness, and adjust the allowances, when appropriate (24 CFR sections 5.603, 880.610, 881.601, 882.510, 883.701, 884.220, 886.126, and 886.326).

Audit Objective - Determine whether tenant utility allowances are properly established.

Suggested Audit Procedures

- a. Examine the procedures used to establish and annually review utility allowances, handle adjustment requests, and notify tenants of utility allowance adjustments.
- b. Select a sample of units with tenant utility allowances and their related tenant files for review.
- c. Test owner requests, PHA determinations, and supporting documentation for utility determinations.
- d. Verify that the allowances were applied to tenants correctly.

3. Housing Quality Standards

Compliance Requirement - The PHA or owner must provide housing that is decent, safe, and sanitary. To achieve this end, the PHA must perform housing quality inspections at the time of initial occupancy and at least annually thereafter to assure that the units are decent, safe, and sanitary (24 CFR sections 880.612, 881.601, 882.516, 883.701, 884.217, 886.123, and 886.323).

Audit Objective - Determine whether the PHA or owner performs the required inspections to assure that units meet housing quality standards.

Suggested Audit Procedures

- a. Examine the procedures used by the PHA or owner to identify those units on which housing quality inspections are due.
- b. Select a sample of units on which HAP contracts were executed and examine inspection reports.
- c. Examine records and ascertain that the PHA or owner assures that the inspections and any needed repairs are completed timely.

- d. Verify that the PHA reviewed the evidence of completion submitted by the owner on newly constructed or rehabilitated units accepted for occupancy.

4. Vacant Units

Compliance Requirement - The PHA or owner must reduce claims for assistance on vacant units under certain circumstances. However, there are instances where special claims are allowed for vacancy losses, unpaid rent, and tenant damages on eligible units (24 CFR sections 880.611, 881.601, 882.411, 883.701, 884.106, 886.109, and 886.309).

Audit Objective - Determine whether payments to owners are reduced for vacant units and whether payments for special claims are proper.

Suggested Audit Procedures

- a. Examine the procedures used by the PHA or owner to provide the current occupancy status of the units receiving Section 8 assistance.
- b. Select a sample of units that were vacated during the audit period and verify that payments to owners were reduced, as prescribed.
- c. Select a sample of payments for special claims and verify that documentation exists to support the payments.

5. Replacement Reserve

Compliance Requirements - The owner shall establish and maintain a replacement reserve to aid in funding extraordinary maintenance and repair and replacement of capital items. The replacement reserve funds must be deposited in an interest-bearing account. All earnings including interest on the reserve must be added to the reserve. All disbursements from the reserve must be as approved or directed by HUD or the State Agency for 24 CFR part 883 projects, as applicable. An amount as required by HUD or the State Agency for 24 CFR part 883 projects, as applicable; shall be deposited monthly in the reserve fund in accordance with the Regulatory Agreement or HAP contract (24 CFR sections 880.601, 880.602, 881.601 and 883.701).

Audit Objectives - Determine whether the replacement reserve was properly established, required monthly deposits were made, and disbursements were only for approved purposes.

Suggested Audit Procedures

- a. Ascertain if reserve has been established in an interest bearing account.
- b. Ascertain if the required monthly deposits have been made to the reserve.
- c. Ascertain if interest earnings from the reserve were retained in the reserve.

- d Test a sample of disbursements from the reserve and ascertain if they were made for an approved purpose.

6. Residual Receipts Account

Compliance Requirements - Any project funds in the project funds account (including earned interest) at the end of the fiscal year shall be deposited with the mortgagee or other HUD-approved depository in an interest bearing account. For projects under 24 CFR part 883, the funds must be deposited with the State Agency or other Agency-approved depository in an interest bearing account. Withdrawals from this account may be made only for project purposes and with the approval of HUD or the State Agency for 24 CFR part 883 projects, as applicable (24 CFR sections 880.601, 881.601, and 883.701).

Audit Objectives - Determine whether the residual receipts account was properly established, the required deposit was made within 60 days following year end, and disbursements were only for approved project purposes.

Suggested Audit Procedures

- a. Ascertain if residual receipts account has been established in an interest-bearing depository.
- b. Ascertain if the required annual deposit was made within 60 days following year end.
- c. Test a sample of disbursements from the residual receipts account and ascertain if they were used for an approved project purpose.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- CFDA 14.218 COMMUNITY DEVELOPMENT BLOCK GRANTS/
ENTITLEMENT GRANTS**
- CFDA 14.219 COMMUNITY DEVELOPMENT BLOCK GRANTS/SMALL
CITIES PROGRAM (HUD-Administered Small Cities)**

I. PROGRAM OBJECTIVES

The primary objective of the Community Development Block Grant (CDBG) Entitlement Program (large cities) (24 CFR part 570 subpart D) and HUD-Administered Small Cities Programs (24 CFR part 570 subpart F) is to develop viable urban communities by providing decent housing, a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. This objective is to be achieved in two ways. First, a grantee can only use funds to assist eligible activities that meet one or more of three national objectives of the program; i.e., benefit low- and moderate-income persons, aid in the prevention of slums and blight, or meet community development needs having a particular urgency. Second, the grantee must spend at least 70 percent of its funds, over a period of up to three years as specified by the grantee in its certification, for activities that address the national objective of benefitting low- and moderate-income persons (24 CFR sections 570.1, 570.200, 570.420, and 570.430).

II. PROGRAM PROCEDURES

The CDBG Entitlement Program provides grants to metropolitan cities and urban counties which must submit certain certifications and a one-year action plan as to how they propose to use the funds for community development activities. The grant amount is determined by the higher of two formulas that consider a community's population, poverty level, extent of overcrowded housing, age of housing, and growth lag (24 CFR section 570.4).

In the Entitlement Program, a non-Federal entity may use, with certain limitations, undisbursed funds in its line of credit and its CDBG program account that are budgeted in statements or action plans for one or more other activities that do not need funds immediately. This financing technique is commonly referred to as a float loan and is used with the expectation that the activity temporarily financed will generate sufficient income to fund the activity initially programmed.

Only the States of New York and Hawaii participate in the HUD-Administered Small Cities Program because those States have elected to have HUD administer the nonentitlement portion of their CDBG Programs, rather than do it themselves. HUD provides CDBG funds to nonentitlement units of general local government in New York State on a competitive basis. In Hawaii, HUD provides CDBG funds to nonentitlement units of general local government using a formula described in 24 CFR section 570.429. The two programs largely share regulatory requirements in the following areas: definitions, eligible activities, grants administration, and performance reviews.

Source of Governing Requirements

These programs are authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301). Implementing regulations are located at 24 CFR 570.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. All activities undertaken must meet one of three national objectives of the CDBG program, i.e., benefit low- and moderate-income persons, eliminate slums or blight, or meet community development needs having a particular urgency (24 CFR section 570.200).
2. CDBG funds are to be used for the following activities: (1) the acquisition of real property; (2) the acquisition, construction, reconstruction, or installation of public works, facilities and sites, or other improvements, including removal of architectural barriers that restrict accessibility of elderly or severely disabled persons; (3) clearance, demolition, and removal of buildings and improvements; (4) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (5) disposition of real property acquired under this program; (6) provision of public services (subject to limitations contained in the CDBG regulations); (7) payment of the non-Federal share for another grant program that is part of the assisted activities; (8) interim assistance where immediate action is needed prior to permanent improvements or to alleviate emergency conditions threatening public health and safety; (9) payment to complete a Title 1 Federal Urban Renewal project; (10) relocation assistance; (11) planning activities; (12) administrative costs; (13) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (14) assistance to community-based development organizations; (15) activities related to privately-owned utilities; (16) assistance to private, for-profit businesses, when appropriate to carry out an economic development project; (17) construction of housing assisted under Section 17 of the United States Housing Act of 1937; (18) reconstruction of properties; (19) direct homeownership assistance to facilitate and expand homeownership; (20) technical assistance to public or private entities for capacity building (exempt from the planning/ administration cap); (21) housing services related to HOME-funded activities; (22) assistance to institutions of higher education to carry out eligible activities; (23) assistance to public and private entities (including for-profits) to assist micro-enterprises; (24) payment for repairs and operating expenses for acquired "in Rem" properties; and (25) residential rehabilitation, including code

- enforcement in deteriorated or deteriorating areas, lead-based paint hazard evaluation, and removal (24 CFR sections 570.200 through 570.207).
3. Each float funded activity must meet all of the same requirements that apply to CDBG-assisted activities generally (24 CFR section 570.301).
 4. Entitlement and HUD-Administered Small Cities Program grantees may have loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974 (42 USC 5308). The guaranteed loan funds are to be used only for the following activities: (1) acquisition of real property; (2) housing rehabilitation; (3) rehabilitation of publicly-owned real property; (4) eligible CDBG economic development activities; (5) relocation payments, (6) clearance, demolition, and removal; (7) payment of interest on Section 108 guaranteed obligations; (8) payment of issuance and other costs associated with private sector financing under this subpart; (9) site preparation related to redevelopment or use of real property acquired or rehabilitated pursuant to this subpart or for economic development purposes; (10) construction of housing by non-profit organizations for homeownership under Section 17(d) of the U.S. Housing Act of 1937 (12 USC 1715(l)) or Title VI of the Housing and Community Development Act of 1987; (11) debt service reserve; and (12) acquisition, construction, reconstruction, rehabilitation or installation of public works and site or other improvements which serve "colonias" (as defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992) (24 CFR sections 570.700 through 570.710).
 5. All the activities that a grantee undertakes during their CDBG program year must be identified in an action plan or an amended action plan (24 CFR sections 91.220 and 570.301). In the HUD-Administered Small Cities Program in New York, only housing activities must be included in an action plan (24 CFR section 91.235).
 6. CDBG funding can only be used for special economic development projects that meet the criteria in 24 CFR section 570.203. Grantees must have data to support that assistance provided to carry out special economic development projects is appropriate by meeting the public benefit standards for job creation and provision of goods and services described in 24 CFR section 570.209.
 7. When CDBG funds are used to finance rehabilitation, the rehabilitation is to be limited to privately-owned buildings and improvements for residential purposes, low income public housing and other publicly owned residential buildings and improvements, publicly or privately owned commercial or industrial buildings under certain circumstances, as well as manufactured housing when it is used as part of the community's permanent housing stock (24 CFR section 570.202).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**
 - a. Not less than 70 percent of the funds must be used over a period of up to three years, as specified by the grantee in its certification, for activities that benefit low- and moderate-income persons. In determining low- and moderate-income benefits, the criteria set forth in 24 CFR sections 570.200(a)(3) and 570.208(a) are used in the Entitlement Program. The criteria set forth in 24 CFR sections 570.420(e) and 570.430(e) are used in the HUD-Administered Small Cities Program.
 - b. Not more than 20 percent of the total grant, plus 20 percent of program income received during a program year, may be obligated during that year for activities that qualify as planning and administration pursuant to 24 CFR sections 570.205 and 570.206 (24 CFR section 570.200(g)). In the HUD-Administered Small Cities Program in Hawaii prior to FY 1995, the 20 percent planning and administration limit was applied to expenditures rather than obligations (24 CFR section 570.430(a)).
 - c. The amount of CDBG funds obligated during the program year for public services must not exceed 15 percent of the grant amount received for that year plus 15 percent of the program income it received during the preceding program year, except that a non-Federal entity that obligated more CDBG funds for public services than 15 percent of its grant funded from Federal Fiscal Years 1982 or 1983 appropriations (excluding program income and any assistance received pursuant to Public Law 98-8) may obligate more CDBG funds than 15 percent as long as the amount obligated in any program year does not exceed 15 percent of the program income it received during the preceding program year plus the percentage or amount obligated in Federal Fiscal Year 1982 or 1983, whichever method of calculation yields the higher amount (24 CFR section 570.201(e)). In the HUD-Administered Small Cities Program in New York, the 15 percent public services cap applies to each year's allocation of nonentitlement funds for the State (24 CFR section 421).

J. Program Income

1. The grantee must accurately account for any program income generated from the use of CDBG funds and must treat such income as additional CDBG funds which are subject to all program rules. Program income does not include income received in a single program year by the grantee and all of its subrecipients if the

total amount of such income does not exceed \$25,000 (24 CFR sections 570.426, 570.500, 570.504, and 570.506).

2. Making loans and collecting the payments on those loans can be a significant source of program income for grantees. The use of income derived from loan payments is subject to program requirements. This carries with it the responsibility for grantees to have a loan origination and servicing system in effect which assures that loans are properly authorized, receivables are properly established, earned income is properly recorded and used, and write-offs of uncollectible amounts are properly authorized (24 CFR sections 570.500, 570.501, 570.504, 570.506, and 570.513).
3. In the HUD-Administered Small Cities Program in New York, any program income received after closeout of the grant must be accounted for under another grant if another grant was open at the time that the program income was received (24 CFR sections 570.504 and 570.506). If the grantee has another ongoing CDBG grant at the time of closeout, the program income will be considered to be program income of the ongoing grant. The grantee can choose which grant to credit the program income to if it has multiple open CDBG grants (24 CFR section 570.426(b)). If the grantee has no ongoing grant at the time of closeout, program income of less than \$25,000 will not be considered program income. Program income of \$25,000 or more will be subject to the terms of the closeout agreement (24 CFR section 570.426(c)).

L. Reporting

1. Financial Reporting

- a. *SF-269, Financial Status Report* - Not Applicable
- b. *SF-270, Request for Advance or Reimbursement* - Not Applicable
- c. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. *SF-272, Federal Cash Transactions Report* - Applicable
- e. *Integrated Disbursement and Information System (IDIS) (OMB No. 2506-0077)* - Grantees may include reports generated by IDIS as part of their annual performance and evaluation report that must be submitted for the CDBG Entitlement Program 90 days after the end of a grantee's program year. Auditors are only expected to test information extracted from IDIS in the following system-generated reports:
 - (1) CO4PRO3 - Activity Summary Report
 - (2) CO4PR26 - CDBG Financial Summary

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

M. Subrecipient Monitoring

Before disbursing any CDBG funds to a subrecipient, the recipient shall sign a written agreement with the subrecipient. The agreement shall include provisions concerning: the statement of work, records and reports, program income and uniform administrative requirements (24 CFR section 570.503).

N. Special Tests and Provisions

1. Citizen Participation

Compliance Requirement - Prior to the submission to HUD for its annual grant, the grantee must certify to HUD that it has met the citizen participation requirements in 24 CFR sections 91, 570.301 and 570.431, as applicable.

Audit Objective - To determine whether the grantee has developed and implemented a citizen's participation plan.

Suggested Audit Procedures

- a. Verify that the grantee has a citizen's participation plan.
- b. Review the plan to verify that it provides for public hearings, publication, public comment, access to records, and consideration of comments.
- c. Examine the grantee's records for evidence that the elements of the citizen's participation plan were followed as the grantee certified.

2. Required Certifications and HUD Approvals

Compliance Requirement - CDBG funds (and local funds to be repaid with CDBG funds) cannot be obligated or expended before receipt of HUD's approval of a Request for Release of Funds (RROF) and environmental certification, except for exempt activities under 24 CFR section 58.34 and categorically excluded activities under section 58.35 (24 CFR section 58.18).

Audit Objective - To determine whether the grantee is obligating and expending program funds only after HUD's approval of the RROF.

Suggested Audit Procedures

- a. Examine HUD's approval of the RROF and environmental certification and note dates.

- b. Review the expenditure and related records to ascertain when CDBG funds, and local funds which were repaid with CDBG funds, were first obligated or expended and ascertain if any funds were obligated or expended prior to HUD's approval of the RROF.

3. Environmental Reviews

Compliance Requirement - Projects must have an environmental review unless they meet criteria specified in the regulations that would exempt or exclude them from RROF and environmental certification requirements (24 CFR sections 58.1, 58.22, 58.34, 58.35, and 570.604).

Audit Objective - To determine whether environmental reviews are being conducted, when required.

Suggested Audit Procedures

- a. Verify through a review of environmental review certifications that the environmental reviews were made.
- b. Select a sample of projects where an environmental review was not performed and ascertain if a written determination was made that the review was not required.
- c. Test whether documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35(b).

4. Rehabilitation

Compliance Requirement - When CDBG funds are used for rehabilitation, the grantee must assure that the work is properly completed (24 CFR section 570.506).

Audit Objective - To determine whether the grantee assures rehabilitation work is properly completed.

Suggested Audit Procedures

- a. Verify that pre-rehabilitation inspections are conducted describing the deficiencies to be corrected.
- b. Ascertain that the deficiencies to be corrected are incorporated into the rehabilitation contract.
- c. Verify through a review of documentation that the grantee inspects the rehabilitation work upon completion to assure that it is carried out in accordance with contract specifications.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.228 COMMUNITY DEVELOPMENT BLOCK GRANTS/STATE'S PROGRAM (State-Administered Small Cities Program)****I. PROGRAM OBJECTIVES**

The primary objective of the Community Development Block Grant (CDBG) State Program (State-Administered Small Cities Program) is the development of viable communities by providing decent housing, a suitable living environment and expanded economic opportunities, principally for persons of low- and moderate-income. This objective can be achieved in two ways. First, funds can only be used to assist eligible activities that fulfill one or more of three national objectives. Second, the grantee must spend at least 70 percent of its funds over a period of up to three years, as specified by the grantee in its certification, for activities that address the national objective of benefitting low- and moderate-income persons (42 USC 5301(c)).

II. PROGRAM PROCEDURES

Funds are provided, according to a statutory formula, to those States that elect to administer their CDBG nonentitlement funds. The States, in turn, distribute the funds to small units of general local government (subrecipients) that do not qualify for grants under the CDBG Entitlement Program (24 CFR section 570.480).

In addition to Federal statutory requirements, each State has the authority to issue rules consistent with Federal statutes and regulations. The State rules should be reviewed before beginning the audit (24 CFR sections 570.480 and 570.481).

Source of Governing Requirements

This program is authorized under Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301). Implementing regulations may be found at 24 CFR part 570.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Section 105(a) of the Housing and Community Development Act of 1974 lists the activities eligible under the CDBG State Program (State administered small cities program) which include: (1) the acquisition of real property; (2) the acquisition, construction, reconstruction, or installation of public works, facilities and site, or other improvements, including removal of architectural barriers that restrict accessibility of elderly or severely disabled persons; (3) code enforcement in

deteriorated or deteriorating areas; (4) clearance, demolition, and removal of buildings and improvements; (5) removal of architectural barriers that restrict accessibility of elderly or severely disabled persons; (6) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (7) disposition of real property acquired under this program; (8) provision of public services (subject to limitations contained in the CDBG regulations); (9) payment of the non-Federal share for another grant program that is part of the assisted activities; (10) payment to complete a Title 1 Federal Urban Renewal project; (11) relocation assistance; (12) planning activities; (13) administrative costs; (14) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (15) assistance to community-based development organizations; (16) activities related to development of energy use strategies; (17) assistance to private, for-profit businesses, when appropriate to carry out an economic development project; (18) rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937; (19) technical assistance to public or private entities for capacity building (exempt from the planning/administration cap); (20) housing services related to HOME funded activities; (21) assistance to institutions of higher education to carry out eligible activities; (22) assistance to public and private entities (including for-profits) to assist micro-enterprises; (23) payment for repairs and operating expenses for acquired "in Rem" properties; (24) direct home ownership assistance to facilitate and expand home ownership; and, (25) residential rehabilitation including code enforcement, lead-based paint hazard evaluation, and removal (42 USC 5305; 24 CFR section 570.482(a)).

2. Each activity that the State funds must either benefit low- and moderate-income families; aid in the prevention or elimination of slums or blight; or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available. The State must retain documentation justifying its certifications (24 CFR section 570.484).
3. Nonentitlement local government grant recipients (subrecipients) may have loans guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974. Guaranteed loan funds may be used only for the following activities: (1) acquisition of real property; (2) housing rehabilitation; (3) rehabilitation of publicly owned real property; (4) eligible CDBG economic development activity; (5) relocation payments, (6) clearance, demolition, and removal; (7) payment of interest on Section 108 guaranteed obligations; (8) payment of issuance and other costs associated with private sector financing under this subpart; (9) site preparation related to redevelopment or use of real property acquired or rehabilitated pursuant to this subpart or for economic development purposes; (10) construction of housing by non-profit organizations for homeownership under Section 17(d) of the U.S. Housing Act of 1937 (12 USC 1715(l)) or Title VI of the Housing and Community Development Act of 1987; (11) debt service reserve; and (12) acquisition, construction, reconstruction, rehabilitation or installation of public works and site or other improvements which

serve "colonias" (as defined in Section 916 of the Housing Act of 1990 and amended by Section 810 of the Housing and Community Development Act of 1992) (24 CFR sections 570.700 through 570.710).

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2. Level of Effort - Not Applicable

3. Earmarking

- a. The Housing and Community Development Act of 1974 requires the State to certify that the aggregate use of the CDBG funds it receives, over a period specified by the State not to exceed three years, shall principally benefit low- and moderate-income persons. This requirement means that not less than 70 percent of the funds must be used in this manner (24 CFR section 570.483 and 42 USC 5304(b)(3)).
- b. The State may use up to \$100,000 of its grant funds for administrative purposes. In addition to this amount, up to two percent of the grant may be expended at the State level for administrative costs, provided such funds are matched from State resources on a one-to-one basis. Further, States may also use two percent of program income collected, regardless of whether at the State or local government level, for administrative costs. All administrative funds, including the State matching funds, which may be in-kind contributions, must be used to carry out the State's responsibilities (24 CFR section 570.489(a)(1)).
- c. For planning and administration costs, the combined expenditures of the State and units of general local governments may not exceed 20 percent of the State's total allocation plus 20 percent of any program income for any given year. Within this Statewide limit, a State may fund grants to local governments consisting entirely of planning activities (24 CFR section 570.489(a)(3)).
- d. The amount of CDBG funds used for public services must not exceed 15 percent of the grant amount received for that year plus 15 percent of the program income it received during the preceding program year. The 15 percent public services cap applies to each year's allocation of nonentitlement funds for the State. Individual grants to units of general local government are not subject to the public services cap (24 CFR 570.201(e)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. *Performance and Evaluation Report (OMB No. 2506-0085)* - This report is due from each grantee within 90 days after the close of its program year in a format suggested by HUD. HUD encourages the submission of the report in both paper and computerized formats. Among other factors, the report is to include a description of the use of funds during the program year and an assessment of the grantee's use to the priorities and objectives identified in its plan. The auditor is only expected to test the financial data in this report (24 CFR section 91.520 (a and c)).

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Environmental Oversight

Compliance Requirement - The State must assume the environmental oversight responsibilities and functions of HUD under Section 104(g), Housing and Community Development (HCD) Act, (42 USC 5304(g)). The State must: (a) require each of its general local governments (subrecipients) to perform as a responsible Federal official in carrying out all HUD environmental review requirements under 24 CFR part 58, National Environmental Policy Act (NEPA), and other applicable authorities; (b) review and approve each subrecipient's Request for Release of Funds (RROF) in accordance with the procedures provided under 24 CFR part 58 subpart J; (c) ensure that each subrecipient observes the statutory requirement that funds cannot be expended or obligated before the State approves its RROF and environmental certification, except as otherwise provided specifically in regulation or authorized by law; and (d) monitor and provide technical assistance to its subrecipients to ensure compliance with the environmental authorities (24 CFR part 58) and the adequacy of environmental reviews.

Audit Objective - Determine whether the State carries out its environmental oversight responsibilities and functions.

Suggested Audit Procedures

- a. Examine the State's approval of the RROF and environmental certification, and note dates.
- b. Verify that the State obtained certifications and that the State's records provide evidence that the funds were obligated and expended after the State's approval of the RROF and environmental certification.

2. Environmental Reviews

Compliance Requirement - Projects must have an environmental review unless they meet criteria specified in the regulations that would exclude them from RROF and environmental certification requirements (24 CFR sections 58.34 and 58.35).

Audit Objective - Determine whether the required environmental reviews were conducted.

Suggested Audit Procedures

- a. Verify that the State obtained environmental review certifications from the subrecipient and that the State records provide evidence that the environmental reviews were made.
- b. For any project where an environmental review was not performed, ascertain that a written determination was made that the review was not required.
- c. Ascertain that documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.231 EMERGENCY SHELTER GRANTS PROGRAM****I. PROGRAM OBJECTIVES**

The Emergency Shelter Grants (ESG) Program is designed to help improve the quality of existing emergency shelters for the homeless, make available additional emergency shelters, and meet the costs of operating emergency shelters and of providing essential social services to homeless individuals so that these persons have access not only to safe and sanitary shelters for the homeless but also to the supportive services and other kinds of assistance they need to improve their situations. The program is also intended to restrict the increase of homelessness through the funding of preventive programs and activities (24 CFR section 576.1).

II. PROGRAM PROCEDURES

The ESG Program provides grants to States, metropolitan cities, urban counties, and the territories according to a formula used in the Community Development Block Grant Program. Except for administrative funds, which must be shared, States must provide funds to "State recipients."

All grantees, except States, and State recipients may carry out activities with ESG amounts. All of a State's formula allocation must be made available: (1) local government in the State, which include formula cities and counties, whether or not such cities and counties receive grant amounts directly from HUD; or (2) private non-profit organizations, if the local government in which the proposed activities are to be located certifies that it approves each project. Units of general local government, both grantees and State recipients, may distribute all or a part of their grant amounts to non-profit recipients (subrecipients) to be used for ESG activities. In addition, States may distribute all or a portion of their grant amounts to non-profit recipients (subrecipients) if the local government in which the proposed activities are located certifies that it approves the project (24 CFR section 576.25).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

ESG amounts may be used for one or more of the activities provided for in 24 CFR section 576.21, including the renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless; provision of essential services to the homeless; payment of costs associated with maintenance, operation (including administration but excluding staff costs), rent, repair, security, fuels and equipment, insurance, utilities, and furnishings; and development and implementation of homeless

prevention activities. This section also provides certain limitations on the use of those funds by units of general local government and State recipients. 24 CFR section 576.23 also provides certain limitations on the use of ESG funds by primarily religious organizations (24 CFR sections 576.21 and 576.23).

G. Matching, Level of Effort, Earmarking

1. Matching

Each grantee must match the funding provided by HUD under its ESG Program with an equal amount from sources other than those provided under the ESG Program. These funds must be provided after the date of the grant award. A grantee may comply with this requirement by providing the supplemental funds itself, or through supplemental funds or voluntary efforts provided by any State recipient or non-profit recipient (subrecipient), as appropriate (24 CFR section 576.51).

2.1 Level of Effort - *Maintenance of Effort* - Not Applicable

2.2 Level of Effort - *Supplement Not Supplant*

Grant amounts may be used to provide essential services to the homeless only if the service is a new service, or is a quantifiable increase in the level of service above that which the unit of general local government provided with local funds during the 12 calendar months immediately before it received initial grant amounts (24 CFR section 576.21(b)).

3. Earmarking

- a. Not more than 30 percent of the total of each grant amount provided to a unit of local government can be used for essential services for the homeless if the service is a new service, unless a waiver is granted (24 CFR section 576.21(b)).
- b. All of a State's formula allocation must be made available to local governments in a State or private non-profit organization, as provided for in 24 CFR section 576.25(b).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Applicable

d. SF-272, *Federal Cash Transactions Report* - Applicable

2. **Performance Reporting** - Not Applicable

3. **Special Reporting** - Not Applicable

N. Special Tests and Provisions

1. Maintenance as Homeless Shelters

Compliance Requirement - Any building for which ESG amounts are used for renovation, or rehabilitation for use as emergency shelters for the homeless as described in 24 CFR section 576.21(a)(1), must be maintained as a shelter for the homeless for not less than a three year period or, if the grant amounts are used for major rehabilitation or conversion of the building, for not less than a ten-year period (24 CFR section 576.53).

Audit Objective - Determine whether buildings improved (i.e., renovated, rehabilitated, or converted for use as an emergency shelter) with ESG funds during the audit period are currently being used as an emergency shelters.

Suggested Audit Procedures

- a. Ascertain if any buildings were improved with ESG funds during the audit period.
- b. Verify the existence of the buildings improved with ESG funds and their current use as a homeless shelter.
- c. Inquire of management whether any buildings improved with ESG funds in prior years are no longer being used as shelters, and if so, whether the prescribed three or ten-year period had expired.

2. Funding

Compliance Requirement - Within 65 days of the date of the grant award by HUD, each State must make available to its State recipients all ESG amounts that were allocated under 24 CFR section 576.5. State recipients, as well as cities, counties, and territories that receive formula money, must have their grant amounts obligated and expended within specified periods, as provided for in 24 CFR section 576.35.

Audit Objective - Determine whether funding was allocated, obligated, and expended within HUD prescribed limits.

Suggested Audit Procedures

- a. Determine the time periods for which funds must be allocated, obligated and expended for the selected entities.

- b. Review records to determine the dates funds were allocated, obligated and expended, as applicable.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.235 SUPPORTIVE HOUSING PROGRAM****I. PROGRAM OBJECTIVES**

The Supportive Housing Program is designed to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness, and to promote the provision of supportive housing to homeless persons so they can live as independently as possible (24 CFR section 583.1).

II. PROGRAM PROCEDURES

Grants are provided to States, local governments, other governmental entities, private non-profit organizations, and community mental health associations that are public non-profit organizations (24 CFR section 583.5). Funds may be used for: (1) transitional housing to facilitate the movement of homeless individuals and families to permanent housing; (2) permanent housing that provides long-term housing for homeless persons with disabilities; (3) housing that is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless persons; or (4) supportive services for homeless persons not provided in conjunction with supportive housing (24 CFR section 583.1(b)).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Grants may be used for acquiring structures, rehabilitating structures, acquiring and rehabilitating structures, new construction, leasing, operating costs for supportive housing, and supportive services as described in 24 CFR sections 583.105 through 583.125. Projects may have more than one type of assistance (24 CFR section 583.100).

E. Eligibility**1. Eligibility for Individuals**

- a. To be eligible to receive assistance under this program an individual must be homeless, as defined in 24 CFR section 583.5. The eligibility of those tenants who were admitted to the program should be determined by obtaining: (1) signed applications that contained all of the information needed to determine eligibility, income, rent and order of selection; and,

(2) when appropriate, third party verifications or documentation of expected income, assets, unusual medical expenses, and any other pertinent information.

- b. Each resident in supportive housing may be required to pay as rent an amount which may not exceed the highest of: (1) 30 percent of the family's monthly adjusted income; (2) 10 percent of the family's monthly income; or (3) if the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of payments that is designated. In addition to resident rent, non-Federal entities may charge residents reasonable fees for services not paid with grant funds (24 CFR sections 583.315(a) and (c)).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

- a. The non-Federal entity must match the grant funds provided by HUD for acquisition, rehabilitation, and new construction with an equal amount of funds from other sources. The matching funds must be cash resources provided to the project by one or more of the following: the non-Federal entity, the Federal Government, State and local governments, and private sources (24 CFR section 583.145).
- b. HUD may provide grants to pay for a portion of the actual operating costs of supportive housing. Assistance for operating costs is available for up to 75 percent of the total cost in each year of the grant. The non-Federal entity must pay with its own funds the percentage of the actual operating costs not funded by HUD. At the end of each operating year, the non-Federal entity must demonstrate that it has met its share of the costs for that year (24 CFR section 583.125).
- c. Beginning with 1999 grants, all funding for supportive services must be matched by 25 percent funding from non-Federal entity (Pub. L. 105-276).

2.1 Level of Effort - *Maintenance of Effort* - Not Applicable

2.2 Level of Effort - *Supplement not Supplant*

No assistance provided under this program, or any State or local government funds used to supplement this assistance, may be used to replace State or local funds previously used, or designated for use, to assist homeless persons (24 CFR section 583.150(a)).

3. Earmarking

No more than five percent of any grant awarded may be used for paying the costs of administering the assistance. Administrative costs include the costs associated with accounting for the use of grant funds, preparing reports for submission to HUD, obtaining program audits, and similar costs related to administering the grant after award. The administrative costs do not include the cost of carrying out eligible activities under 24 CFR sections 583.105 through 583.125 (24 CFR section 583.135).

J. Program Income

Income from resident rent payments may be used in the operation of the project or may be reserved, in whole or in part, to assist residents of transitional housing in moving to permanent housing (24 CFR section 583.315(b)).

L. Reporting

1. Financial Reporting

- a. *SF-269, Financial Status Report* - Not Applicable
- b. *SF-270, Request for Advance or Reimbursement* - Not Applicable
- c. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. *SF-272, Federal Cash Transactions Report* - Not Applicable
- e. *HUD-40118, Annual Progress Report (OMB No. 2506-0145)* - This report is due from each grantee 90 days after the end of each operating year. Separate reports are required for each grant received (24 CFR section 583.300 (g)).

The auditor is expected to test the financial data in:

- (1) Part I - Exhibit 3 (Supportive Services)
- (2) Part II - Exhibit 7 (Supportive Housing Operating Cost and Share Report)
- (3) Part II - Exhibit 8 (Supportive Housing Acquisition, Rehabilitation, and New Construction Expenditures and Match Report)

2. Performance Reporting - Not Applicable

3. Subrecipient Reporting - Not Applicable

N. Special Tests and Provisions

1. Reasonable Rental Rates

Compliance Requirement - Where grants are used to pay for rent for all or a part of a structure, the rent paid must be reasonable in relation to rents being charged in the area for comparable space. In addition, the rent may not exceed rents currently being charged by the same owner for comparable space (24 CFR section 583.115(b)(1)).

Where grants are used to pay rent for individual housing units, the rent paid must be reasonable in relation to rents being charged for comparable units taking into account relevant features. In addition, the rents may not exceed rents currently being charged by the same owner for comparable unassisted units, and the portion of rents paid with grant funds may not exceed HUD-determined fair market rents. Non-Federal entities may use grant funds in an amount up to one month's rent to pay the non-recipient landlord for any damages to leased units by homeless participants (24 CFR section 583.115(b)(2)).

Audit Objective - Determine reasonableness of the rents being paid by the non-Federal entities.

Suggested Audit Procedures

- a. Determine the acceptability of the manner in which the non-Federal entity establishes rent reasonableness and the rents charged by the owner for comparable unassisted units. Ascertain through an examination of documentation that telephone surveys, site visits after telephoning, more extensive market surveys of available rental units, or similar tools, were used to assess the reasonableness of rents being charged.
- b. Verify by a review of the rental records that the contract rents being paid are comparable with those paid for unassisted units, no more than one month's rent is paid for tenant damages, and that the portion of rents paid with grant funds do not exceed fair market rents.

2. Use of Property

Compliance Requirement - All non-Federal entities receiving assistance for acquisition, rehabilitation, or new construction must agree to operate the supportive housing or provide supportive services for a term of at least 20 years from the date of initial occupancy or the date of initial service provision. If HUD determines that a project is no longer needed for use as supportive housing or to provide supportive services and approves the use of the project for the direct benefit of low-income persons pursuant to a request for such use by the non-Federal entity operating the project, HUD may authorize the non-Federal entity to convert the project to such use (24 CFR section 583.305).

Audit Objective - Determine whether there are valid agreements for the provision of supportive housing or supportive services when assistance is provided for acquisition, rehabilitation, or new construction.

Suggested Audit Procedures

Verify that a binding agreement exists between the non-Federal entity and owner of the structure, if other than the non-Federal entity, covering the provision of supportive housing or supportive services for 20 years if the grant assistance involves acquisition, rehabilitation, or new construction.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.238 SHELTER PLUS CARE

I. PROGRAM OBJECTIVES

The Shelter Plus Care Program is designed to link rental assistance to supportive services for hard to serve homeless persons with disabilities (primarily those who have a serious mental illness; have chronic problems with alcohol, drugs, or both; or have acquired immunodeficiency syndrome (AIDS) and related diseases) and their families if they are also homeless (24 CFR section 582.1).

II. PROGRAM PROCEDURES

The program provides grants to States, units of general local government, Indian tribes, or public housing agencies (PHAs). The grants are to be used to provide rental assistance so homeless persons with disabilities can obtain permanent housing. Rental assistance grants must be matched in the aggregate by supportive services that are equal in value to the amount of rental assistance and appropriate to the needs of the population to be served. Non-Federal entities are chosen on a competitive basis nationwide (24 CFR section 582.1).

Rental assistance is provided through the four components described in 24 CFR section 582.100: (1) tenant-based rental assistance (TRA); (2) project-based rental assistance (PRA); (3) sponsor-based rental assistance (SRA); and (4) moderate rehabilitation for single room occupancy (SRO) dwellings. Applicants may apply for assistance under any one, or a combination, of the four components. This Supplement's section relating to CFDA 14.856, beginning on page 4-14.182-1, should be used in auditing the moderate rehabilitation program for SRO dwellings (24 CFR section 582.1).

The grant amount is based on the number and size of units to be assisted by the applicant over the grant period. It is calculated by multiplying the number of units to be assisted by their fair market rents for the term of the grant in months. The amount determined will be reserved for rental assistance over the grant period (24 CFR section 582.105(b)).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Shelter Plus Care grants may be used to provide rental assistance for housing occupied by eligible persons and to pay for the costs of administering the housing, except that the housing may not be receiving Federal funds for rental assistance or operating costs under any other HUD program. Non-Federal entities may design a

housing program that includes a range of housing types and different levels of supportive services. Rental assistance may include security deposits on units amounting to one month's rent (24 CFR section 582.105(a)).

2. The eight percent administrative allowance for housing assistance (see III.G.3 below) does not include the cost of administering the supportive services or the grant (e.g., costs of preparing the application, reports or audits required by HUD), which are not eligible activities under a Shelter Plus Care grant. Non-Federal entities may contract with another entity approved by HUD to administer the housing assistance. Eligible administrative activities include processing rental payments to landlords, examining participant income and family composition, providing housing information, inspecting housing units for compliance with housing quality standards, and receiving new participants into the program (24 CFR section 582.105(e)).

E. Eligibility

1. Eligibility for Individuals

- a. To be eligible for assistance under this program, a person must be homeless, of very low-income and have disabilities, as defined in 24 CFR section 582.5. Low-income persons may be assisted under the SRO component, in accordance with 24 CFR section 5.607. The eligibility of tenants admitted to the program should be determined by: (1) obtaining signed applications that contained the information needed to determine eligibility, income, and rent; and, when appropriate, (2) obtaining third party verifications or documentation of expected income, assets, unusual medical expenses, and any other pertinent information. Tenant income should not exceed the maximum limit set by HUD for the PHAs jurisdiction, as provided in the notice transmitting Income Limits for Low and Very Low-Income Families Under the Housing Act of 1937.
- b. Each person must pay rent which is the highest of: (1) 30 percent of the family's monthly adjusted income; (2) 10 percent of the family's monthly income; or (3) if the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs, the portion of payments that is so designated (24 CFR section 582.310(a)).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking**1. Matching**

A grantee must provide or ensure the provision of supportive services that are at least equal in value to the aggregate amount of rental assistance funded by HUD. This includes funding the services itself if the planned resources do not become available for any reason, appropriate to the needs of the population being served. The supportive services may be newly created for the program or existing, and may be provided or funded by other Federal, State, local, or private programs. Only services that are provided after the execution of the grant agreement may count toward the match. The manner in which the value of supportive services is calculated is contained in 24 CFR section 582.110(c).

2.1 Level of Effort - *Maintenance of Effort* - Not Applicable**2.2 Level of Effort - *Supplement not Supplant***

No assistance received under this program (or any State or local government funds used to supplement this assistance) may be used to replace funds provided under any State or local government assistance programs previously used, or designated for use, to assist homeless persons with disabilities (24 CFR section 582.115(d)).

3. Earmarking

Up to eight percent of the grant amount may be used to pay the costs of administering housing assistance, subject to the limits noted in III.A.2 above (24 CFR section 582.105(e)).

L. Reporting**1. Financial Reporting**

- a. *SF-269, Financial Status Report* - Not Applicable
- b. *SF-270, Request for Advance or Reimbursement* - Not Applicable
- c. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. *SF-272, Federal Cash Transactions Report* - Not Applicable
- e. *HUD-40118, Annual Progress Report (OMB No. 2506-0145)* - This report is due from each grant non-Federal entity (and separately for each component funded) within 90 days after the end of its operating year (24 CFR section 582.300 (d)).

Key Line Items - Financial data in Part I - Exhibit 3 (Supportive Services)

2. **Performance Reporting** - Not Applicable
3. **Special Reporting** - Not Applicable

N. Special Tests and Provisions

1. Rent Reasonableness

Compliance Requirement - HUD will only provide assistance for a unit for which the rent is reasonable. For TRA, PRA, and SRA, it is the responsibility of the non-Federal entity to determine whether the rent charged for the unit receiving assistance is reasonable in relation to rents being charged for comparable unassisted units. For SRO units, rents are calculated in accordance with 24 CFR section 882.805(d) (24 CFR section 582.305(b)).

Audit Objective - Determine reasonableness of the rents being paid by the grantee.

Suggested Audit Procedures

- a. Identify the manner in which the non-Federal entity establishes rent reasonableness, and if such tools as telephone surveys, site visits after telephoning, or more extensive market surveys of available rental units were conducted in order to assess the reasonableness of rents being charged. Examine the non-Federal entity's documentation showing rents charged for comparable unassisted units.
- b. Verify that the contract rents being paid are comparable with those paid for unassisted units. If unassisted units are in the building, compare rents paid for those units with the rents paid for the assisted units.

2. Housing Quality Standards

Compliance Requirement - Housing assisted under the Shelter Plus Care Program must meet applicable housing quality standards under 24 CFR section 882.109 and, for the SRO component, under 24 CFR section 882.803(b). Before any assistance is provided on behalf of a participant, the non-Federal entity, or another entity acting on behalf of the non-Federal entity (other than the owner of the housing), must physically inspect each unit to assure that the unit meets housing quality standards. Non-Federal entities must also inspect all units annually during the grant period to ensure that units continue to meet housing quality standards (24 CFR section 582.305(a)).

Audit Objective - Determine whether the grantee performs the required inspections to assure that units meet housing quality standards.

Suggested Audit Procedures

- a. Verify through a review of documentation that the non-Federal entity identifies those units on which housing quality inspections are due.
- b. Verify through a review of documentation that the non-Federal entity performed inspections of units and that any needed repairs were completed timely.

3. Project-based Rental Assistance

Compliance Requirement - Project-based rental assistance provides grants for rental assistance to the owner of an existing structure, where the owner agrees to lease the subsidized units to participants. Participants do not retain rental assistance if they move. Rental subsidies are provided to the owner for a period of either five or ten years. To qualify for ten years of rental subsidies, the owner must complete at least \$3000 of eligible rehabilitation work for each unit (including the prorated share of work to be accomplished on common areas or systems), to make the structure decent, safe, and sanitary (24 CFR section 582.100(b)).

Audit Objective - Determine whether project-based assistance is being paid in accordance with agreements.

Suggested Audit Procedures

- a. Examine the existing agreement between the owner and the non-Federal entity to determine whether the agreement is for either five or ten years.
- b. If the agreement is for ten years, verify through a review of documentation that the required rehabilitation of at least \$3000 was performed after the grant was executed.
- c. Examine the billings from the owner, and verify that the assistance payments are for units occupied or ready for occupancy.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.239 HOME INVESTMENT PARTNERSHIPS PROGRAM

I. PROGRAM OBJECTIVES

The objectives of the Home Investment Partnerships (HOME) Program include: expanding the supply of decent and affordable housing, particularly housing for low- and very low-income Americans; strengthening the abilities of State and local governments to design and implement strategies for achieving adequate supplies of decent, affordable housing; providing financial and technical assistance to participating jurisdictions, including the development of model programs for affordable low-income housing; and extending and strengthening partnerships among all levels of government and the private sector, including for-profit and non-profit organizations, in the production and operation of affordable housing (24 CFR section 92.1).

II. PROGRAM PROCEDURES

The program is conducted by jurisdictions (States, cities, urban counties, and consortia) which receive an allocation of funds. Participating jurisdictions must submit a description of how they propose to use the funds for housing activities, together with certifications. The funding amount is based on a formula of six factors established to reflect a jurisdiction's need for an increased supply of affordable housing for low- and very low-income families (24 CFR section 92.1).

A State may carry out its own HOME program without active participation of units of general local government or may distribute HOME funds to units of general local government to carry out HOME programs in which both the State and all or some of the units of general local government perform specified functions. A unit of general local government designated by a State to receive HOME funds from a State is a "State recipient." Before disbursing funds to an entity, each participating jurisdiction is required to enter into written agreements with the entity. The contents of the agreement may vary depending on the role which the entity is asked to assume or the type of project undertaken. However, there must be certain minimum provisions depending on whether the entity is a State recipient; subrecipient; for-profit or non-profit housing owner; contractor; as well as a home buyer, homeowner, or tenant receiving tenant-based rental or security deposit assistance (24 CFR section 92.504).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. HOME funds (including program income generated by activities carried out with HOME funds) may be used by participating jurisdictions to provide for: (1) incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; (2) the payment of reasonable administrative and planning costs; and, (3) the payment of operating expenses of community housing development organizations (CHDOs). The housing must be permanent or transitional. The acquisition of vacant land or demolition can only be undertaken with respect to a particular housing project intended to provide affordable housing. Conversion of an existing structure to affordable housing is rehabilitation unless certain circumstances exist. Manufactured housing may be purchased or rehabilitated and the land upon which it is built may be purchased with HOME funds. HOME funds may be used to pay for development construction costs, refinancing costs, acquisition costs, related soft costs, CHDO costs, relocation costs, and costs related to the repayment of loans (24 CFR sections 92.205(a) and 92.206).
2. A participating jurisdiction may use or "invest" HOME funds as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies, deferred payment loans, grants, or other forms of assistance approved by HUD. A participating jurisdiction may invest HOME funds to guarantee loans made by lenders and, if required, the participating jurisdiction may establish a loan guarantee account with HOME funds. The amount of the loan guarantee account must be based on a reasonable estimate of the default rate on the guaranteed loans but under no circumstances, may the amount on deposit exceed 20 percent of the total outstanding principal amount guaranteed, except that the account may include a reasonable minimum balance. While loan funds guaranteed with HOME funds are subject to all HOME requirements, funds which are used to repay the guaranteed loans are not (24 CFR section 92.205(b)).
3. Generally, HOME funds may not be used for: project reserve accounts, tenant-based rental assistance for the special purpose of the Section 8 program, non-Federal matching contributions under any other non-Federal program, annual contributions for the operation of public housing, public housing modernization, assistance to prepay low income housing mortgages, assistance to a project previously assisted with HOME funds during the period of affordability (i.e., the period for which the non-Federal entity must maintain subsidized housing), and the acquisition of property by the participating jurisdiction. Participating jurisdictions may not charge monitoring, servicing, and origination fees in HOME-assisted projects (24 CFR section 92.214).

E. Eligibility

1. Eligibility for Individuals

- a. The HOME Program has income targeting requirements. Only low-income or very low-income persons, as defined in 24 CFR section 92.2, can receive housing assistance (24 CFR section 92.1). Therefore, the participating jurisdiction must determine if each family is income eligible by determining the family's annual income, as provided for in 24 CFR section 92.203. Participating jurisdictions must maintain records for each family assisted (24 CFR section 92.508).
- b. HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low-income families and must meet certain limits on the rents that can be charged. The requirements also apply to the HOME-assisted non-owner-occupied single-family housing purchased with HOME funds. The maximum HOME rents are the lesser of: the fair market rent for comparable units in the area, as established by HUD under 24 CFR section 888.111, or a rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area as determined by HUD with adjustments for the number of bedroom units. In rental projects with five or more units there are additional rent limitations. Twenty percent of the HOME-assisted units must be occupied by very low-income families and meet one of the following rent requirements: (1) the rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for larger or smaller families; or (2) the rent does not exceed 30 percent of the families adjusted income (24 CFR section 92.252).
- c. A participating jurisdiction may use HOME funds for tenant-based rental assistance, as provided for in 24 CFR section 92.209(b). The participating jurisdiction must select families in accordance with policies and criteria consistent with those provided in 24 CFR section 92.209(c).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

Except for funds allocated in Fiscal Year 1992, each participating jurisdiction must provide eligible matching contributions of 25 percent of HOME funds drawn down during the fiscal year. The match must be provided by the end of the fiscal year. Some

participating jurisdictions are eligible for a reduction in the required match based upon meeting standards of distress. The jurisdictions which are eligible for the reduction are identified by notice published in the *Federal Register*, or a notice issued by HUD. Jurisdictions may also receive reductions if they are in Presidentially-declared disaster areas. Participating jurisdictions are required to maintain records, including individual project records, and a running log, demonstrating compliance with the matching requirements, including the type and amount of contributions by project. Matching information is provided on the HOME Match Report (form HUD-40107-A) (24 CFR sections 92.218 through 92.220, 92.222, and 92.508).

2. Level of Effort - Not Applicable

3. Earmarking

- a. Each participating jurisdiction must invest HOME funds made available during a fiscal year so that, with respect to tenant-based rental assistance and rental units not less than 90 percent of (a) the families receiving assistance are families whose annual income do not exceed 60 percent of the median family income for the area, as determined and made available by HUD, with adjustments for smaller and larger families at the time of occupancy or at the time funds are invested, whichever is later, or (b) the dwelling units assisted with such funds are occupied by families having such incomes (24 CFR section 92.216).
- b. Each participating jurisdiction must invest HOME funds made available during a fiscal year so that with respect to homeownership assistance, 100 percent of these funds are invested in dwelling units that are occupied by households that qualify as low-income families at the time of occupancy or at the time funds are invested, whichever is later (24 CFR section 92.217).
- c. Each participating jurisdiction must invest at least 15 percent of each year's HOME allocation in projects which are owned, developed, or sponsored by special non-profit organizations called CHDOs. If during the first 24 months of its participation in the HOME Program a participating jurisdiction cannot identify a sufficient number of capable CHDOs, then up to 20 percent of the minimum set-aside (but not more than \$150,000 during the 24 month period) may be made available to develop the capacity of CHDOs in the jurisdiction (24 CFR section 92.300).
- d. A participating jurisdiction may expend for its HOME administrative and planning costs an amount of HOME funds that is not more than ten percent of the fiscal year HOME basic formula allocation plus any funds received in accordance with 24 CFR section 92.102(b) to meet or exceed threshold requirements that fiscal year. A participating jurisdiction may also use up to ten percent of any return of the HOME investment, as defined in 24 CFR section 92.503, calculated at the time of deposit in its

HOME account, for administrative and planning costs (24 CFR section 92.207).

M. Subrecipient Monitoring

Each participating State is responsible for distributing HOME funds throughout the State according to the State's assessment of the geographical distribution of housing need within the State. A State may carry out its own HOME Program without active participation of units of general local government or may distribute HOME funds to units of general local government to carry out HOME Programs in which both the State and all or some of the units of general local government perform specified program functions. A State that uses State recipients to perform program functions shall ensure that the State recipients use HOME funds in accordance with applicable laws and requirements. A State shall include in its written agreements with its State recipients such additional provisions as may be appropriate to ensure compliance and to enable the State to carry out its responsibilities under the HOME Program. The State is to conduct such reviews and audits of its State recipients as may be necessary or appropriate to determine whether the State recipient has committed and expended the HOME funds, as required by 24 CFR section 92.500, and has met HOME Program requirements particularly as they relate to eligible activities, income targeting, affordability, and matching contribution requirement (24 CFR section 92.201(b)).

Before disbursing funds to a subrecipient, each participating jurisdiction is required to enter into written agreements with the entity which includes provisions dealing with: the use of HOME funds, program income, uniform administrative requirements, other program requirements, affirmative marketing, requests for disbursement of funds, reversion of assets, records and reports, and enforcement of the agreement. Further, if the subrecipient provides HOME funds to for-profit owners or developers, non-profit organizations, subrecipients, homeowners, homebuyers, tenants receiving tenant-based rental assistance, or contractors, the subrecipient must have a written agreements which contain the provisions in 24 CFR section 92.504.

N. Special Tests and Provisions

1. Maximum Per Unit Subsidy

Compliance Requirement - The per unit investment of HOME funds may not exceed the Federal Housing Administration (FHA) mortgage limits in Subsection 221(d)(3) of the National Housing Act, including any area-wide high cost exceptions approved by HUD. This information should be available from the grantee or the local HUD field office. In mixed-income or mixed use projects, the average per unit investment in HOME-assisted units may not exceed the applicable Subsection 221(d)(3) limit. Participating jurisdictions are required to evaluate each housing project in accordance with guidelines that it adopts to ensure that the combination of Federal assistance to the project is not any more than is necessary to provide affordable housing (24 CFR section 92.250).

Audit Objective - Determine whether the HOME subsidies being provided are not more than necessary to provide affordable housing and are properly supported.

Suggested Audit Procedures

- a. Review a sample of projects to verify that the HOME subsidy amounts are supported by the participating jurisdiction's records.
- b. Review participating jurisdiction records to verify that each housing project was evaluated in accordance with its guidelines to ensure that the combination of Federal assistance to the project is not any more than is the FHA mortgage limits in Subsection 221(d)(3) of the National Housing Act necessary to provide affordable housing.

2. Drawdowns of HOME Funds

Compliance Requirement - The Integrated Disbursement and Information System is used both to collect information on compliance with program requirements and to disburse HOME funds. Participating jurisdictions (or their authorized representatives) are required to have different staffs setting up projects and drawing down funds. Participating jurisdictions must maintain payment certifications each time a drawdown of funds is made (24 CFR section 92.502).

Audit Objective - Determine whether the required separation of duties is maintained over the drawdown of HOME funds.

Suggested Audit Procedures

- a. Verify that the persons setting up projects are not the same as the person drawing down funds.
- b. Verify that HOME payment certification amounts match the amount of disbursements.

3. Housing Quality Standards

Compliance Requirement - During the period of affordability (i.e., the period for which the non-Federal entity must maintain subsidized housing) for HOME assisted rental housing, the participating jurisdiction must perform on-site inspections to determine compliance with property standards and verify the information submitted by the owners no less than: (a) every three years for projects containing 1 to 4 units, (b) every two years for projects containing 5 to 25 units, and (c) every year for projects containing 26 or more units. The participating jurisdiction must perform on-site inspections of rental housing occupied by tenants receiving HOME-assisted tenant-based rental assistance to determine compliance with housing quality standards (24 CFR sections 92.251, 92.252, and 92.504(b)).

Audit Objective - Determine whether the grantee performs the required inspections to assure that property standards are met.

Suggested Audit Procedures

- a. Verify through a review of documentation that the non-Federal entity identifies those units on which housing quality inspections are due.
- b. Verify through a review of documentation that the non-Federal entity performs inspections of units and that any needed repairs are completed timely.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.241 HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

I. PROGRAM OBJECTIVES

The Housing Opportunities for Persons with AIDS (HOPWA) Program is designed to provide States and localities with resources and incentives to devise long term strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome (AIDS) or related diseases and their families (24 CFR section 574.3).

II. PROGRAM PROCEDURES

The Department of Housing and Urban Development (HUD) awards funds appropriated for the program in any fiscal year through both a formula allocation and competitive grant process. Ninety percent of the funds are awarded through formula grants and ten percent through competitive grants. HUD allocates formula funds based on the number of cases of AIDS reported to and confirmed by the Centers for Disease Control and on population data furnished by the U.S. Bureau of the Census (24 CFR section 574.130).

Competitively-awarded funds are available for special projects of national significance and other projects submitted by States and localities that do not qualify for formula grants. All States, units of general local government, and non-profit organizations may apply for grants for projects of national significance. Only those States and units of general local government that do not qualify for formula awards may apply for grants for other projects. Except for grants involving projects of national significance, non-profit organizations are not eligible to apply directly to HUD for a grant, but may receive funding as a project sponsor (subrecipient) under a contract with a grantee (24 CFR section 574.210).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. HOPWA funds may be used to assist all forms of housing designed to prevent homelessness, including emergency housing, shared housing arrangements, apartments, single room occupancy (SRO) dwellings, and community residences. Appropriate supportive services must be provided as part of any HOPWA assisted housing, but HOPWA funds may also be used to provide services independently of any housing activity. The following activities may be carried out with HOPWA funds: housing information services; resource identification to establish, coordinate and develop housing assistance resources for eligible persons; acquisition, rehabilitation, conversion, lease, and repair of facilities to

provide housing and services; new construction for SRO and community residences only; project- or tenant-based rental assistance, including assistance for shared housing arrangements; short-term rent, mortgage and utility payments to prevent the homelessness of the tenant or the mortgagor of a dwelling; supportive services; operating costs for housing; technical assistance in establishing and operating a community residence; administrative expenses; and, for competitive grants only, any other activity proposed by the applicant and approved by HUD (24 CFR section 574.300).

2. Grantees must assure that grant funds will not be used to make payments for health services for any item or service to the extent that payment was made, or can reasonably be expected to be made, with respect to any item or service: (1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or (2) by an entity that provides health services on a prepaid basis, as provided for in 24 CFR section 574.310(a)(2). Supportive services includes such items as alcohol abuse treatment and counseling, day care, and nutritional services (24 CFR section 574.300(b)(7)).

E. Eligibility

1. Eligibility for Individuals

- a. A person eligible for assistance under this program means one with AIDS or a related disease who is a low-income individual, as defined in 24 CFR section 574.3, and the person's family. The eligibility of those tenants who were admitted to the program should be determined by: (1) obtaining signed applications that contained all the information needed to determine eligibility, income, rent and order of selection; and (2) obtaining third party verifications or documentation of expected income, assets, unusual medical expenses, and any other pertinent information.
- b. Except for persons in short-term supportive housing, each person receiving rental assistance under the HOPWA Program must pay as rent the higher of: (1) 30 percent of the family's monthly adjusted gross income; (2) 10 percent of the family's monthly gross income; or (3) the portion of the payments that is designated if the family is receiving payments for welfare assistance from a public agency and a part of the payments, adjusted in accordance with the family's actual housing costs, is specifically designated by the agency to meet the family's housing costs (24 CFR section 574.310).
- c. If grant funds are used to provide rental assistance, the amount of grant funds used to pay monthly assistance for an eligible person may not exceed the difference between the lower of the rent standard or reasonable rent for the unit and the resident's rent payment calculated in accordance with 24 CFR section 574.310 (24 CFR section 574.320). Allowable assistance can be determined by telephone surveys, site visits after

telephoning, or more extensive market surveys of available rental units to assess the reasonableness of rents being charged.

- d. A short-term supported housing facility may not provide residence to any individual for more than 60 days during any six month period. Rent, mortgage and utility payments to prevent the homelessness of the tenant or the mortgagor of a dwelling may not be provided to such an individual for costs accruing over a period of more than 21 weeks in any 52 week period. Further a short-term supported facility may not provide shelter or housing at any single time for more than 50 families or individuals (24 CFR section 574.330).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort* - Not Applicable

2.2 Level of Effort - *Supplement not Supplant*

The amounts received from grants under this program may not be used to replace other amounts made available or designated by State or local governments through appropriations to be used to carry out the purposes of this program (24 CFR section 574.400).

3. Earmarking

Each grantee may use not more than three percent of the grant amount for its own administrative costs relating to administering grant amounts and allocating such amounts to project sponsors (subrecipients). Each project sponsor receiving amounts from grants made under this program may not use more than seven percent of the amounts for administrative costs (24 CFR section 574.300(b)(10)(i)-(ii)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable

- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. HUD-40110, *Annual Progress Report* (OMB No. 2506-0133) - This report is due from each grantee within 90 days after the close of its program year. Separate reports are required for formula and competitive grants. Reports contain three basic parts. The auditor is only expected to test the financial data which is found in part 3, Program Expenditures and Housing Provided (24 CFR section 574.520 and 24 CFR part 91).

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Maintenance of Structures

Compliance Requirement - Project-based rental assistance provides grants for rental assistance to the owners of existing structures, where the owner agrees to lease the subsidized units to participants. Participants do not retain rental assistance if they move. Unless waived by HUD, any building or structure assisted with funds under HOPWA must be maintained as a facility to provide housing or assistance for individuals with AIDS or related diseases: (1) for a period of not less than ten years, in the case of assistance provided under an activity eligible under 24 CFR section 574.300(b)(3) - (4) involving new construction, substantial rehabilitation, or acquisition of a building or structure; or (2) for a period of not less than three years in cases involving nonsubstantial rehabilitation or repair of a building or structure (24 CFR section 574.310(c)(1) - (2)).

Audit Objective - Determine whether the project sponsor is receiving the proper amount of assistance and is maintaining the assisted buildings and structures for participants for the stipulated periods.

Suggested Audit Procedures

- a. Identify the buildings or structures assisted with HOPWA funds and verify their use.
- b. Examine related agreements to verify that the structures are to provide housing or assistance for the stipulated number of years when new construction, substantial rehabilitation, acquisition, or nonsubstantial rehabilitation was involved.
- c. Verify from documentation or by observation that the required rehabilitation was performed if the project was accepted for occupancy during the audit period.

2. Housing Quality Standards

Compliance Requirement - All housing that involves acquisition, rehabilitation, conversion, lease, repair of facilities, new construction, project- or tenant-based rental

assistance (including assistance for shared housing arrangements), and operating costs must meet various housing quality standards listed in 24 CFR section 574.310(b)(1)-(2).

Audit Objective - Determine whether the grantee performs the required inspections to assure that units meet housing quality standards.

Suggested Audit Procedures

- a. Verify by a review of documentation that the grantee's system identifies those units on which housing quality inspections are due.
- b. Verify by a review of documentation that the grantees performs inspections of these units and that any needed repairs were completed timely.

3. Community Residences

Compliance Requirement - A community residence is a multi-unit residence designed for eligible persons to provide a lower cost residential alternative to institutional care, to prevent or delay the need for such care, to provide a permanent or transitional residential setting with appropriate services to enhance the quality of life for those who are unable to live independently, and to enable those persons to participate as fully as possible in community life. If grant funds are used to provide a community residence (except for planning and other preliminary expense), the grantee must, prior to the expenditure of such funds, obtain and keep on file certifications relating to the services to be provided, the adequacy of funding and the capabilities of the grantee, project sponsor, or service provider (24 CFR section 574.340).

Audit Objective - Determine whether the required certifications are being maintained and supported.

Suggested Audit Procedures

- a. Review the grantees files to verify that the required certifications are maintained.
- b. Verify that there is evidence on file to support the certifications that were made.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.850 PUBLIC AND INDIAN HOUSING****I. PROGRAM OBJECTIVES**

The overall objective of the Public and Indian Housing program is to provide and operate cost-effective, decent, safe and affordable dwellings for lower income families through an authorized local Public Housing Agency (PHA).

II. PROGRAM PROCEDURES*Public Housing*

Annual contributions are made to PHAs for debt service payments for commitments approved on or prior to September 30, 1986, or direct funding of capital costs (grants) is provided to PHAs for commitments approved after September 30, 1986. In addition, operating subsidy funds are available to achieve and maintain adequate operating and maintenance service and reserve funds.

Emphasis is on housing type (i.e., acquisition with or without rehabilitation versus new construction) and household type (i.e., large family). Funds may also be used for the major reconstruction of obsolete existing public housing projects.

Public Housing Agencies established in accordance with State law are eligible. The proposed program must be approved by the local governing body. Pursuant to the Native American Housing Assistance and Self Determination Act of 1996, Indian Housing Authorities (IHAs) are no longer eligible for funding under the U.S. Housing Act of 1937 or the Indian Housing Act.

There are three core occupancy procedures which are described in program regulations and other guidance: (1) determination of eligibility; (2) determination of income and rent; and (3) leasing and continuing occupancy. Eligibility beneficiaries are lower income families which include citizens or eligible immigrants. "Families" includes but is not limited to: (1) a family with or without children; (2) an elderly family (head, spouse, or sole member 62 years or older), (3) near-elderly family (head, spouse, or sole member 50 years old but less than 62 years old); (4) a disabled family; (5) a displaced family; (6) the remaining member of a tenant family; or (7) a single person who is not elderly, near-elderly, displaced, or a person with disabilities.

Operating Fund

The assistance made available from the Operating Fund is determined by a formula used to calculate the amount of operating subsidy for each PHA. The operating subsidy is equal to the Allowable Expense Level (AEL) plus the Allowable Utilities Expense Level (AUEL) plus Other Costs minus the estimated Operating Income of the Project. The methodology and procedures for this calculation are found in 24 CFR part 990.

The operating subsidy calculation is prepared in conjunction with the PHA annual operating budget. Form HUD 52723, *Operating Fund Calculation of Operating Subsidy (OMB No. 2577-0029)* is submitted between 90 and 150 days before the beginning of the PHA fiscal year. The

program operating budget constitutes the approved plan for expenditure of operating subsidy funds and program operating receipts.

Essentially, the AEL, which is the non-utility costs for each PHA, is based on what it would cost a well-managed PHA of comparable location and characteristics to operate based on such variables as local Government Wage Rate Index, number of bedrooms per high rise family project, and number of bedrooms per unit. The resulting AELs are arrived at by application of the formula utilizing these variables. These costs are updated annually based on inflation and changes in the PHA characteristics included in the equation. Utility expenses are estimated separately based on rules that set consumption at the average of a prior 3-year period referred to as the "rolling base" and changes in the utility rates. Other costs include cost of the independent audit, costs of vacant units approved for deprogramming, costs attributable to changes in Federal law or regulation, and costs resulting from combining two or more units.

Performance Reporting

HUD assesses the performance of housing agencies to evaluate their actions in all major areas of management operations and to designate as "troubled" any agency that fails on a widespread basis to provide acceptable housing conditions.

HUD evaluates a PHA using the Public Housing Assessment System (PHAS) (24 CFR part 902). The PHAS is based on four indicators: (1) the physical condition of the PHA's public housing properties; (2) the PHA's financial condition; (3) the PHA's management operations (measured by *Management Operations Certification*, HUD Form 500072 (OMB No. 2535-0106)); and (4) resident's assessment (measured through a resident survey) of the PHA's performance. To assess the performance of a PHA on the basis of the first two indicators, the Real Estate Assessment Center (REAC) uses comprehensive and standardized protocols to conduct physical inspections of public housing properties and to assess the financial condition of PHAs.

Source of Governing Requirements

This program is authorized by the US Housing Act of 1937, as amended (42 USC 6(j), 9(a), 1437d(j), 1439, and USC 3535(d)). Implementing regulations are 24 CFR parts 5, 901, 902, 960, 966, and 990.

Availability of Other Program Information

HUD maintains web pages on the Internet (www.hud.gov/progdesc/pihindx.cfm and www.hud.gov/offices/reac/index.cfm) which provide general information about this program.

HUD's Real Estate Assessment Center web site (www.hud.gov/offices/reac/library/lib_mo.cfm) includes an *Instruction Guidebook for Completing Public Housing Assessment System Management Operations Certifications Form HUD 50072*.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a federal program, the auditor should first look to Part 2, Matrix of Compliance requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

E. Eligibility

1. Eligibility for Individuals

Most PHAs devise their own application forms that are filled out by the PHA staff during an interview with the tenant. The head of household signs: (a) a certification that the information provided to the PHA is correct; (b) one or more release forms to allow the PHA to get information from third parties; (c) a federally-prescribed general release form for employment information; and (d) a privacy notice. Under some circumstances, other members of the family may be required to sign these forms (24 CFR sections 5.212, 5.230, and 5.601 through 5.615).

The PHA must:

- a. As a condition of admission or continued occupancy, require the tenant and other family members to provide necessary information, documentation, and releases for the PHA to verify income eligibility (24 CFR sections 5.230, 5.609, and 960.259).
- b. For both family income examinations and reexaminations, obtain and document in the family file third party verification of: (1) reported family annual income; (2) the value of assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income or income-based rent (24 CFR section 960.259).
- c. Determine income eligibility and calculate the tenant's rent payment using the documentation from third party verification in accordance with 24 CFR part 5 subpart F (24 CFR part 5 subpart F (24 CFR 5.601 *et seq.*), 960.253, 960.255, and 960.259).
- d. Select tenants from the public housing waiting list (see "N.1, Public Housing Waiting List") (24 CFR section 960.204 and 960.208).
- e. Reexamine family income and composition at least once every 12 months and adjust the tenant rent and housing assistance payment as necessary using the documentation from third party verification (24 CFR sections 960.209, 960.253, 960.257, and 960.259).

2. Eligibility of Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable.

L. Reporting

1. Financial Reporting - Not Applicable

2. Performance Reporting

Public Housing Assessment System (PHAS) Management Operations Certification, HUD Form 500072 (OMB No. 2535-0106) - HUD primarily measures housing agencies' management performance through the management operations indicators of its PHAS. This system requires annual electronic filing. PHAS assists HUD in: (a) assisting housing agencies and holding them accountable for providing safe and decent housing and (b) protecting the Federal investment in their properties.

PHAS regulations are at 24 CFR part 902.

Key Line Items - The following line items contain critical information:

1. *Sub-Indicator #1: Vacant Unit Turnaround Time*

V12400	Total number of turnaround days
V12500	Total number of vacancy days exempted for capital funding
V12600	Total number of vacancy days exempted for other reasons
V12700	Total number of vacant units turned around and leased in the PHA's immediate past fiscal year

2. *Sub-Indicator #3: Work Orders*

(a) *Component #1: Emergency Work Orders*

W10000	Total number of emergency work orders
W10100	Total number of emergency work orders corrected/abated within 24 hours

(b) *Component #2: Non-Emergency Work Orders*

W10500	Total number of non-emergency work orders
W10600	Total number of calendar days it took to complete non-emergency work orders

3. *Sub-Indicator #4: Annual Inspection of Dwelling Units and Systems*

(a) *Component #1: Annual Inspection of Dwelling Units*

A10000	The total number of ACC units
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A10100	The sum of units exempted where the PHA made two documented attempts to inspect and is enforcing the lease
A10200	Vacant units exempted for Capital Fund
A10300	Vacant units exempted for other reasons
A10400	Total number of units inspected using the Uniform Physical Condition Standards (UPCS)
A10550	Total number of units inspected that did not require repairs
A10600	The number of units where necessary repairs were completed to comply with UPCS either during the inspection, issued work orders for the repairs, or referred the deficiency to the current year's or next year's Capital Fund program

(b) *Component #2: Annual Inspection of Systems Including Common Areas and Non-Dwelling Space*

A11100	Total number of sites
A11200	Total number of sites exempted from the inspection of systems
A11300	The total number of sites where all systems were inspected in accordance with the UPCS
A11400	Total number of buildings
A11500	Total number of building exempted from the inspection of systems
A11600	The total number of buildings where all systems were inspected in accordance with the UPCS
A11700	The number of buildings and sites where necessary repairs were completed to comply with the UPCS either during the inspection, issued work orders for the repairs, or referred the deficiency to the current year's or next year's Capital Fund program

4. *Sub-Indicator #5: Security*

(a) *Component #2: Screening of Applicants*

S10800	The total number of applicants denied who met the One-Strike criteria
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(b) *Component #3: Lease Enforcement*

S11200	The total number of evictions as a result of the One-Strike criteria
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3. Special Reporting

- a. HUD-50058, *Family Report (OMB No. 2577-0083)* - The PHA is required to submit this form electronically to HUD the each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA's jurisdiction under portability.

For Family updates on or before March 31, 2001. Key Line Items - The following line items contain critical information:

- (1) Line 2a - *Type of Action*
- (2) Line 2b - *Effective Date of Action*
- (3) Lines 3b, 3c - *Names*
- (4) Line 3e - *Dates of Birth*
- (5) Line 3n - *Social Security Numbers*
- (6) Line 5a - *Unit Address*
- (7) Lines 5g, 5h - *Unit Inspection Dates*
- (8) Line 7m - *Total Annual Income*
- (9) Line 13h - *Contract Rent to Owner*
- (10) Line 13k or 13x - *Tenant Rent*
- (11) Lines 2e and 16a - *Family's Participation in the Family Self-Sufficiency (FSS) Program*
- (12) Line 16d(2) - *FSS Account Balance*

For family updates after March 31, 2001. Key Line Items - The following line items contain critical information.

- (1) Line 2a - *Type of Action*
- (2) Line 2b - *Effective Date of Action*
- (3) Line 3b, 3c - *Names*
- (4) Line 3e - *Date of Birth*
- (5) Line 3n - *Social Security Numbers*

- (6) Line 5a - *Unit Address*
 - (7) Line 5h, 5i - *Unit Inspection Dates*
 - (8) Line 7i - *Total Annual Income*
 - (9) Line 13h - *Contract Rent to Owner*
 - (10) Line 13k or 13x - *Tenant Rent*
 - (11) Lines 2k and 17a - *Family's Participation in the Family Self Sufficiency (FSS) Program*
 - (12) Line 17k(2) - *FSS Account Balance*
- b. HUD-52723, *Operating Fund Calculation of Operating Subsidy (OMB No. 2577-0029)* - This form is prepared at least 90 days before the end of the fiscal year and is used by HUD to calculate funding for the next year. The form's data is based upon historical information. The auditor is not expected to audit the column headed "HUD Modifications (PUM)."

Key Line Items - The following line items contain critical information:

- (1) Section 1(e) - *Unit Months Available (UMAs)*
 - (2) Section 2, Part A, Line 5 - *Add-ons to allowable expense level from previous fiscal year*
 - (3) Section 2, Part B, Line 1 - *Total rent roll*
 - (4) Section 2, Part C, Line 1 - *Other income*
 - (5) Section 2, Part D, Line 1 - *FICA contributions*
 - (6) Section 2, Part D, Line 2 - *Unemployment compensation*
- c. HUD 52722-A, *Calculation of Allowable Utilities Expense Level (OMB No. 2577-0029)*
- Key Line Items* - The following line item contains critical information:
- Line 1, *UMA and actual consumption for old projects for 12 month period which ended 12 months before RB Year*
- d. HUD 52722-B, *Adjustment for Utility Consumption and Rates (OMB No. 2577-0029)*

Key Line Items - The following line items contain critical information

- (1) Line 1, *Actual Utility Costs for the fiscal Year for which adjustment is requested*
- (2) Line 2, *Actual consumption for the fiscal year for which adjustment is requested*

N. Special Tests & Provisions

1. Public Housing Waiting List

Compliance Requirement - The PHA must establish and adopt written policies for admission of tenants. The PHA tenant selection policies must include requirements for applications and waiting lists, description of the policies for selection of applicants from the waiting lists, and policies for verification and documentation of information relevant to acceptance or rejections of an applicant (24 CFR sections 960.204 through 960.207).

Audit Objective - Determine whether the PHA is following its own tenant selection policies in placing applicants on the waiting list in selecting applicants from the waiting list to become tenants.

Suggested Audit Procedures

- a. Review the PHA's tenant selection policies.
- b. Test a sample of applicants added to the waiting list and ascertain if the PHA's tenant selection policies were followed in placing applicants on the waiting list.
- c. Test a sample of new tenants to ascertain if they were selected from the waiting list in accordance with the PHA's tenant selection policies.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.854 PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM****I. PROGRAM OBJECTIVES**

The purpose of the Public Housing Drug Elimination Program (PHDEP) is to make available Federal grants to assist Public Housing Agencies (PHAs) and Tribally Designated Housing Entities (TDHEs) to reduce drugs and drug-related crime in and around public housing developments, and encourage PHAs and TDHEs to develop plans that include initiatives that can be sustained over a period of several years for addressing the problem of drugs and drug-related crime in and around the premises of public and Native American housing.

II. PROGRAM PROCEDURES

These grants are awarded on an annual basis. The grant term may not exceed 24 months unless an extension is requested and approved by HUD.

For PHDEP, funding is awarded using a per-unit approach. There is a minimum funding allocation of \$25,000, but PHAs with fewer than 50 units are capped at \$500 per unit (24 CFR 761.13 (a)).

For IHDEP, the maximum grant award amounts are computed on a sliding scale, depending upon the number of housing units eligible for funding (24 CFR 761.13 (b)).

Source of Governing Requirements

This program is authorized by the Anti-Drug Abuse Act of 1988, Chapter 2, Subtitle C, Title V, as amended, codified at 42 USC 11901 *et seq.* Implementing regulations are at 24 CFR part 761.

Availability of Other Program Information

Additional information about the PHDEP is available on the Internet at www.hud.gov/pih/gmc/formulagrantslist.html#3. Additional information about the IHDEP is available on the Internet at www.hud.gov/offices/pih/ih/grants/ihdep.cfm.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look first to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of these requirements.

A. Activities Allowed or Unallowed**1. *Activities Allowed***

- a. Funds may be used for the employment of security personnel, executing duties not routinely performed by local law enforcement agencies (baseline services) unless a cost analysis has been performed that demonstrates the employment of security personnel is more cost efficient than obtaining the service from the local law enforcement agency. A public or federally assisted housing authority employing such personnel is required to enter into and execute a written agreement that describes the activities to be performed, the security personnel's scope of authority, and how they will coordinate their activities with local law enforcement and the types of activities they are expressly prohibited from undertaking (42 USC 11903(a); 24 CFR section 761.17(a)(1)).
- b. Funds may be used for the reimbursement of local law enforcement personnel for additional security and protective services (42 USC 11903(a); 24 CFR section 761.17(a)(2)).
- c. Funds may be expended for physical improvements that are specifically designed to enhance security (42 USC 11903(a); 24 CFR section 761.17(a)(3)).
- d. Funds may be used to employ one or more individuals to investigate drug-related crime on or about the real property comprising any public or federally assisted low-income housing project or to provide evidence relating to such crime in any administrative or judicial proceeding (42 USC 11903(a); 24 CFR section 761.17(a)(4)).
- e. Funds may be expended for the provision of training, communications equipment and other related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials (42 USC 11903(a); 24 CFR section 761.17(a)(5)).
- f. Funds may be expended for liability insurance required in connection with voluntary tenant patrols (24 CFR section 761.17(a)(5)).
- g. Funds may be expended on programs designed to reduce the use of drugs in and around public or other federally assisted low-income housing projects, including drug abuse prevention, intervention, referral and treatment programs (42 USC 11903(a); 24 CFR section 761.17(a)(6)).
- h. Funds may be used to provide funding to non-profit public housing RMCs and resident councils to develop security and drug abuse prevention programs involving site residents (42 USC 11903(a); 24 CFR section 761.17(a)(7)).

- i. Funds may be expended on sports programs and sports activities that serve youths from public or other federally assisted low-income housing projects and are operated in conjunction with, or in furtherance of, an organized program or plan designed to reduce or eliminate drugs and drug-related problems in and around such projects (42 USC 11903(a)). (24 CFR 761.17(a)(8)).
- j. Funds may be used to eliminate drug-related crime in and around housing owned by public housing agencies that is not publically assisted housing if the housing is located in a high intensity drug trafficking area designated pursuant to 21 USC 1504, and the public housing agency owning the housing demonstrates that drug-related or violent activity in or around the housing has a detrimental effect on or about the real property comprising any public or other federally assisted low-income housing (42 USC 11903(b); 24 CFR section 761.17(a)(9)).
- k. Additional information on eligible activities for IHDEP may be found in the separate annual Notice of Funding Availability for that particular grant. The Notice of Funding availability for 2001 was published in the February 26, 2001 *Federal Register* (66 FR 11987)) (24 CFR sections 761.17 (a) and 761.20 (b)).

2. ***Activities Unallowed***

- a. Funds may not be used to fund an activity that is funded under any other Federal program (24 CFR section 761.17(a)(3)(i)).
- b. Funds are not permitted to be used for physical improvements that would result in the displacement of any person (24 CFR section 761.17(a)(3)(iii)).
- c. Funds are not permitted to be used for physical improvements that involve the demolition of any units in a development (24 CFR section 761.17(a)(3)(ii)).
- d. Funds may not be used to acquire real property (24 CFR section 761.17(a)(3)(iv)).
- e. Funds may not be expended to provide any kind of financial compensation for voluntary tenant patrols participants, except to compensate a grant coordinator for voluntary tenant foot patrols (24 CFR section 761.17(a)(5)(iv)).
- f. Funds may not be used for costs incurred before the effective date of the grant agreement, including, but not limited to, consultant fees for surveys related to the application or the actual writing of the application (24 CFR section 761.17(b)(2)).

- g. Funds may not be expended for the costs related to screening or evicting residents for drug-related crime. However, investigators funded under this program may participate in judicial and administrative proceedings (24 CFR section 761.17(b)(3)).
 - h. Additional information on ineligible activities for IHDEP may be found in the separate annual Notice of Funding Availability for that particular grant. The Notice of Funding availability for 2001 was published in the February 26, 2001 *Federal Register* (66 FR 11987)) (24 CFR sections 761.17 (a) and 761.20 (b)).
3. Specific grant agreements may contain additional specific information concerning allowable and unallowable activities (24 CFR section 761.17(a)).

L. Reporting

1. Financial Reporting

- a. SF-269, Financial Status Report - Applicable (24 CFR section 761.35(c))
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.862 INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

I. PROGRAM OBJECTIVES

The primary objective of the Indian Community Development Block Grant (CDBG) program is the development of viable Indian and Alaskan Native communities, including decent housing, a suitable living environment, and expanded economic opportunities, principally for persons of low- and moderate-income. Indian CDBG assistance may not be used to reduce substantially the amount of local financial support for community development activities below the level of support prior to the availability of the assistance (24 CFR section 1003.2).

II. PROGRAM PROCEDURES

Two types of grants are eligible under the Indian CDBG program. Single purpose grants provide funds for one or more single purpose projects which consist of an activity or set of activities designed to meet a specific community development need. This type of grant is awarded through competition with other single purpose projects. Imminent threat grants alleviate an imminent threat to public health or safety that requires immediate resolution. This type of grant is awarded only after a HUD field office determines that such conditions exist and that funds are available for such grants (24 CFR section 1003.100).

Source of Governing Requirements

Implementing regulations are published at 24 CFR part 1003.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Indian CDBG funds (including program income generated by activities carried out with grant funds) may only be used for the following activities: (1) the acquisition of real property; (2) the acquisition, construction, reconstruction, or installation of public works, facilities, and site, or other improvements; (3) code enforcement in deteriorated or deteriorating areas; (4) clearance, demolition, removal, and rehabilitation of buildings and improvements; (5) special projects for removal of material and architectural barriers that restrict accessibility by elderly and handicapped individuals; (6) payments to housing owners for losses of rental income incurred in temporarily holding housing for the relocated; (7) disposition of real property acquired under this program; (8) provision of public services (subject to limitations contained in regulations and to certain HUD determinations); (9) payment of the non-Federal share for a grant program that is part of

the assisted activities; (10) payment to complete a Title 1 Federal Urban Renewal project; (11) relocation assistance; (12) planning activities; (13) administrative costs; (14) acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings; (15) assistance to community-based development organizations; (16) activities related to energy use; (17) assistance to private, for-profit business, when appropriate to carry out an economic development project; (18) substantial reconstruction of housing owned and occupied by low- and moderate-income persons (subject to certain HUD determinations); (19) direct assistance to facilitate and expand homeownership; (20) technical assistance to public or private entities for capacity building (exempt from planning/administration cap); (21) housing counseling and housing activity delivery costs under Indian CDBG and Indian HOME; (22) assistance to colleges and universities to carry out eligible activities; and, (23) assistance to public and private entities (including for-profits) to assist micro-enterprises (24 CFR sections 1003.201 through 1003.206).

F. Equipment and Real Property Management

Generally, when real property that was acquired or improved using Indian CDBG program funds in excess of \$25,000 is disposed of, the Indian CDBG program must be reimbursed for its fair share of the current market value of the property. If disposition occurs after program closeout, the proceeds shall be used for allowable activities and meeting the primary objective of the program (24 CFR section 1003.504).

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2. Level of Effort - Not Applicable

3. Earmarking

- a. To be eligible under the Indian CDBG program, a single purpose grant activity must benefit low- and moderate-income persons. To meet this requirement, not less than 70 percent of the funds of each single purpose grant must be used for activities that benefit low- and moderate-income persons under the criteria set forth in 24 CFR sections 1003.208(a), (b), (c), or (d). In determining the percentage of funds used for such activities, the provisions of 24 CFR section 1003.208(e)(4) apply.
- b. No more than 20 percent of the total grant plus program income received during a program year may be obligated during that year for activities that qualify as planning and administration pursuant to 24 CFR sections 1003.205 and 1003.206 (24 CFR section 1003.206). Technical assistance costs associated with developing the capacity to undertake a specific funded program activity are not considered administrative costs and are not included in the 20 percent limitation on planning and administration costs (24 CFR section 1003.206).

- c. Public service activities may comprise no more than 15 percent of the total grant award 24 CFR section 1003.201(e).

J. Program Income

Program income received before grant closeout may be retained by the non-Federal entity if the income is treated as additional Indian CDBG funds subject to all the applicable requirements governing the use of Indian CDBG funds. However, as noted in 24 CFR section 1003.503(b)(4), program income does not include the first \$25,000 in program income received by the grantee and all of its subrecipients in any single year if the total amount of such income does not exceed \$25,000 (24 CFR section 1003.503).

L. Reporting

1. Financial Reporting

- a. *SF-269, Financial Status Report* - Applicable (24 CFR 761.35(c)).
- b. *SF-270, Request for Advance or Reimbursement* - Not Applicable
- c. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. *SF-272, Federal Cash Transactions Report* - Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

M. Subrecipient Monitoring

Before disbursing any CDBG funds to a subrecipient, the recipient shall sign a written agreement with the subrecipient. The agreement shall include provisions concerning: the statement of work, records and reports, program income, uniform administrative requirements, and reversion of assets (24 CFR section 1003.502).

N. Special Tests and Provisions

1. Environmental Assessments

Compliance Requirement - An environmental assessment must be prepared for a project unless the grantee determined that it met a criterion specified in the regulations that would exempt or exclude it from Request for Release of Funds (RROF) and environmental certification requirements (24 CFR section 58.34 and 58.35). Exempt activities do not require an environmental review; activities which are potential exclusions require an environmental review to determine if an exclusion is applicable. If not applicable, an assessment must be done (24 CFR 1003.605).

Audit Objective - Determine whether the required environmental reviews are being performed.

Suggested Audit Procedures

- a. Select a sample of projects for which expenditures were made and verify that environmental certifications exist.
- b. Ascertain that the certifications were supported by an environmental assessment.
- c. For any project where an environmental assessment was not performed, ascertain that a written determination was made that the assessment was not required.
- d. Ascertain whether documentation exists that any determination not to do an environmental assessment was made consistent with the criteria contained in 24 CFR sections 58.34 and 58.35.

2. Release of Funds

Compliance Requirement - Indian CDBG funds (and local funds to be repaid with Indian CDBG funds) cannot be obligated or expended before receipt of HUD's approval of a RROF and environmental certification, except for exempt activities under 24 CFR section 58.34 or activities found to be categorically excluded under 24 CFR section 58.35 (24 CFR sections 58.22, 58.33-35, and 1003.605).

Audit Objective - Determine whether funds were obligated or expended before HUD's approval of the RROF and environmental certification.

Suggested Audit Procedures

- a. Examine HUD's approval of the RROF and environmental certification and note receipt dates.
- b. Review the expenditure and related records and determine the dates the funds were obligated or expended.
- c. Determine that funds, including other than Indian CDBG funds that were subsequently reimbursed by Indian CDBG funds, were obligated or expended subsequent to RROF and environmental certification approval by HUD.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.867 INDIAN HOUSING BLOCK GRANTS****I. PROGRAM OBJECTIVES**

The primary objectives of the Indian Housing Block Grant (IHBG) Program are: (a) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families; (b) to coordinate activities to provide housing for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members; and (c) to plan for and integrate infrastructure resources for Indian tribes with housing development for Indian tribes.

II. PROGRAM PROCEDURES

The IHBG program is formula driven, based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities. To access funds, Indian tribal governments (or tribally designated housing entities (TDHEs)) must submit an Indian Housing Plan (IHP) to the Department of Housing and Urban Development (HUD), and HUD must find that the IHP meets the requirements of section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). IHBG funds awarded to a recipient may only be used for affordable housing activities that are consistent with its IHP.

Source of Governing Requirements

This program is authorized by the Native American Housing Assistance and Self-Determination Act of 1996, codified at 25 USC 4101 through 4212. Implementing regulations are in 24 CFR part 1000.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. The following activities to develop or to support affordable housing for rental or home ownership, or to provide housing services with respect to affordable housing are allowable:

- a. *Indian Housing Assistance* - The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority, including such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing (25 USC 4132(1) and 4133(b)).
 - b. *Development* - The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities (25 USC 4132(2)).
 - c. *Housing Services* - The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or home-ownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section (25 USC 4132(3)).
 - d. *Housing Management Services* - The provision of management services for affordable housing, including preparation of work specifications; loan processing, inspections; tenant selection; management of tenant-based rental assistance; and management of affordable housing projects (25 USC 4132(4)).
 - e. *Crime Prevention and Safety Activities* - The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime (25 USC 4132(5)).
 - f. *Model Activities* - Housing activities under model programs that are designed to carry out the purposes of NAHASDA and are specifically approved by the Secretary as appropriate for such purpose (25 USC 4132(6)).
2. Grants funds may not be used for affordable housing activities for rental or lease-purchase dwelling units developed under the United States Housing Act of 1937 (42 USC 1437 *et seq.*), or with amounts provided that are owned by the recipient for the Tribe unless the conditions specified in 25 USC 4111(d), regarding tax exemption for real and personal property taxes and user fees, are met (25 USC 4111(d)).

E. Eligibility**1. Eligibility for Individuals**

Each recipient shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under NAHASDA. The following families are eligible for affordable housing activities (25 USC 4131(b)):

- a. Low income Indian families on a reservation or Indian area (24 CFR section 1000.104(a)).
- b. A non-low income Indian family may receive housing assistance in accordance with 24 CFR section 1000.110, except that non-low income Indian families residing in housing assisted under the Housing Act of 1937 (42 USC 1437 *et seq.*) do not have to meet the requirements of 24 CFR section 1000.110 for continued occupancy (24 CFR section 1000.104(b)).
- c. A non-Indian family may receive housing assistance on a reservation or Indian area if the non-Indian family's housing needs cannot be reasonably met without such assistance, and the recipient determines that the presence of that family on the reservation or Indian area is essential to the well-being of Indian families, except that non-Indian families residing in housing assisted under the Housing Act of 1937 do not have to meet these requirements for continued occupancy (24 CFR section 1000.104(c)).

Housing assistance for non-low income Indian families requires HUD approval only as required in 24 CFR sections 1000.108 and 1000.110. Assistance under section 201(b)(3) of NAHASDA for non-Indian families does not require HUD approval, but only requires that the recipient determine that the presence of that family on the reservation or Indian area is essential to the well-being of Indian families and the non-Indian family's housing needs cannot be reasonably met without such assistance (24 CFR section 1000.106).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable**3. Eligibility for Subrecipients - Not Applicable****G. Matching, Level of Effort, Earmarking****1. Matching - Not Applicable****2. Level of Effort - Not Applicable**

3. Earmarking

- a. Up to 10 percent of an annual grant may be used to provide housing assistance to families whose adjusted income (defined at 25 USC 4103(1)) falls within 80 to 100 percent of the median income (defined at 24 CFR section 1000.10). HUD approval is required to exceed this 10 percent cap or to provide assistance to families with incomes in excess of 100 percent of the median income (24 CFR section 1000.110(d)).
- b. A recipient may use up to 20 percent of its annual grant for administration and planning. HUD approval must be obtained to exceed this percentage (24 CFR section 1000.238).

J. Program Income

Any program income may be retained by a recipient provided it is used for affordable housing activities in accordance with 25 USC 4132. If the amount of income received in a single year by a recipient and all of its subrecipients, which would otherwise be considered program income, does not exceed \$25,000, such funds may be retained but will not be considered to be or treated as program income (24 CFR section 1000.62).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. HUD-272-I, *Federal Cash Transactions Report* (OMB No. 2577-0218) Applicable

2. Performance Reporting

- a. HUD-52735-A, *Annual Performance Report* (OMB No. 2577-0218) - This report is submitted by paper or electronically via the Internet to the Area Office of Native American Programs (ONAP) within 60 days of the end of the recipient's program year.

Key Line Items - The following items contain critical information.

1. Part B, Table I, Financial Resources and Accomplishments - column c.
2. Part B, Table II - Allocation of Funds for NAHASDA Activities - columns e through i.
3. Part E, Table III - Periodic Monitoring of Assisted Units - columns c through g.

3. Special reporting - Not Applicable

N. Special Tests and Provisions

1. Environmental Review

Compliance Requirement - Program regulations provide that a recipient (or beneficiary Tribe, if the recipient is a TDHE) may assume responsibilities for environmental review and decision making under the requirements of 24 CFR part 58 or it may allow HUD to retain these responsibilities. If HUD retains the responsibilities, HUD will do reviews under the provisions of 24 CFR part 50 (24 CFR section 1000.20). A HUD environmental review must be completed for any activities not excluded before a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds (24 CFR section 1000.20(a)).

If the recipient or beneficiary Tribe assumes these responsibilities, the following applies; an environmental assessment must be prepared for an activity unless the recipient (or beneficiary tribe, if the recipient is a TDHE) determined that the activity met a criterion specified in the regulations that would exempt or exclude it from Request for Release of Funds (RROF) and environmental certification requirements (24 CFR sections 58.34 and 58.35). Exempt activities do not require an environmental review; activities which are potential exclusions require an environmental review to determine if an exclusion is applicable. If not applicable, an assessment must be done. No funds may be committed to a grant activity or project before the completion of the environmental review and approval of the request for release of funds and related certification required by 25 USC 4115(b), except as authorized by 24 CFR section 58 such as for the costs of environmental reviews and other planning and administrative expenses (24 CFR section 1000.20(b)(3)).

Audit Objective - Determine whether (1) the required environmental reviews have been performed and (2) program funds were not obligated or expended prior to completion of the environmental review process.

Suggested Audit Procedures

- a. Select a sample of projects for which expenditures were made and verify that:
 - (1) Environmental certifications were supported by an environmental assessment.
 - (2) For any project where an environmental assessment was not performed, a written determination was made that the assessment was not required and documentation exists to support such determination consistent with the criteria contained in 24 CFR sections 58.34 and 58.35.
 - (3) Funds were not obligated or expended prior to the environmental assessment or a determination that an assessment was not required.

2. Investment of IHBG Funds

Compliance Requirement - A recipient may invest IHBG funds for purposes of carrying out IHBG activities in investment securities if approved by HUD (24 CFR section 1000.58). Investments may be for a period of time not to exceed two years and only in those accounts or instruments identified in 24 CFR section 1000.58 (c). The amount of IHBG funds and percentage of those funds which may be invested is restricted by the provisions of 24 CFR section 1000.58(f).

Audit Objective - Determine whether the investment of IHBG funds by the recipient meets the requirements of 24 CFR section 1000.58.

Suggested Audit Procedures

- a. If IHBG funds have been invested during the audit period:
 - (1) Ascertain that prior written HUD approval had been obtained, and any conditions or restrictions on the approval.
 - (2) Verify that the amount invested is no greater than the allowable percentages of the formula grant amount net of any of this amount allocated for the operating subsidy element of Formula Current Assisted Stock component of the formula.
 - (3) Verify that the funds were invested only in those allowable accounts or instruments and within any conditions or restriction on the approval.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**CFDA 14.871 SECTION 8 HOUSING CHOICE VOUCHERS****I. PROGRAM OBJECTIVES**

The Housing Choice Voucher Program (HCVP) provides rental assistance to help very low income families afford decent, safe, and sanitary rental housing.

II. PROGRAM PROCEDURES

The HCVP is administered by local public housing agencies (PHAs) authorized under State law to operate housing programs within an area or jurisdiction. The PHA accepts the application for rental assistance, selects the applicant for admission, and issues the selected family a voucher confirming the family's eligibility for assistance. The family must then find and lease a dwelling unit suitable to the family's needs and desires in the private rental market. The PHA pays the owner a portion of the rent (a housing assistance payment (HAP)) on behalf of the family.

The subsidy provided by the HCVP is considered a tenant-based subsidy because when an assisted family moves out of a unit leased under the program, the assistance contract with the owner terminates and the family may move to another unit with continued rental assistance (24 CFR section 982.1).

HUD enters into annual contributions contracts (ACCs) with PHAs under which HUD provides funds to the PHAs to administer the programs locally. The PHAs enter into HAP contracts with private owners who lease their units to assisted families (24 CFR section 982.151).

In the HCVP, the PHA verifies a family's eligibility (including income eligibility) and then issues the family a voucher. The family generally has 60 days to locate a rental unit where the landlord agrees to participate in the program. The PHA determines whether the unit meets housing quality standards (HQS). If the PHA approves a family's unit and determines that the rent is reasonable, the PHA contracts with the owner to make HAPs on behalf of the family (24 CFR section 982.1(a)(2)).

Under the HCVP, apart from the requirement that the rent must be reasonable in relation to rents charged for comparable units in the private unassisted market, there is generally no limit on the amount of rent that an owner may charge for a unit. However, at initial occupancy of any unit where the gross rent exceeds the payment standard, a family may not pay more than 40 percent of adjusted monthly income toward rent and utilities.

The voucher subsidy is set based on the difference between the lower of the PHA's applicable payment standard for the family or the gross rent and the total tenant payment (generally 30 percent of the family's monthly adjusted income). This is the maximum amount of subsidy a family may receive regardless of the rent the owner charges for the unit (24 CFR part 982, subpart K).

If the cost of utilities is not included in the rent to the owner, the PHA uses a schedule of utility allowances to determine the amount an assisted family needs to cover the cost of utilities. The PHA's utility allowance schedule is developed based on utility consumption and rate data for various unit sizes, structure types, and fuel types. The PHA is required to review its utility allowance schedules annually and to adjust them if necessary (24 CFR section 982.517).

The PHA must inspect units leased under the HCVP at the time of initial leasing and at least annually thereafter to ensure they meet HUD housing quality standards (HQS). The PHA must also conduct supervisory quality control HQS inspections (24 CFR sections 982.305 and 982.405).

PHAs are required to maintain a HAP contract register or similar record in which to record the PHA's obligation for monthly HAPs. This record must provide information as to: the name and address of the family, the name and address of the owner, dwelling unit size, the beginning date of the lease term, the monthly rent payable to the owner, monthly rent payable by the family to the owner, and the monthly HAP. The record shall also provide data as to the date the family vacates and the number of days the unit is vacant, if any (24 CFR section 982.158).

The Section 8 Management Assessment Program (SEMAP) is HUD's assessment program to annually and remotely measure the performance of PHAs that administer the HCVP. Under SEMAP, PHAs submit an annual certification, Form HUD-52648 (*OMB No. 2577-0215*), to HUD concerning their compliance with program requirements under 14 indicators of performance (24 CFR part 985).

In the HCVP, required program contracts and other forms must be word-for-word in the form prescribed by HUD headquarters. Any additions to or modifications of required program contracts or other forms must be approved by HUD headquarters (24 CFR section 982.162).

Under a homeownership option of the HCVP implemented in October 2000, a PHA may choose to provide assistance to a qualified first-time homebuyer to subsidize the family's monthly homeownership expenses. The homeownership option is operated by a PHA as a separate sub-program of the HCVP which is subject to somewhat different rules (24 CFR 982.625 through 982.641).

Source of Governing Requirements

The HCVP regulations are found in 24 CFR parts 5, 982, and 985.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

PHAs may use HCVP funds only for HAPs to participating owners, and for administrative fees (24 CFR sections 982.151 and 982.152).

E. Eligibility**1. Eligibility of Individuals**

Most PHAs devise their own application forms that are filled out by the PHA staff during an interview with the tenant.

The head of the household signs: (a) one or more release forms to allow the PHA to obtain information from third parties; (b) a Federally-prescribed general release form for employment information; and (c) a privacy act notice. Under some circumstances, other members of the family are required to sign these forms (24 CFR sections 5.212 and 5.230).

The PHA must:

- a. As a condition of admission or continued occupancy, require the tenant and other family members to provide necessary information, documentation, and releases for the PHA to verify income eligibility (24 CFR sections 5.230, 5.609, and 982.516).
- b. For both family income examinations and reexaminations, obtain and document in the family file third party verification of: (1) reported family annual income; (2) the value of assets; (3) expenses related to deductions from annual income; and (4) other factors that affect the determination of adjusted income or income-based rent (24 CFR section 982.516).
- c. Determine income eligibility and calculate the tenant's rent payment using the documentation from third party verification in accordance with 24 CFR part 5 subpart F (24 CFR section 5.601 *et seq.*) (24 CFR sections 982.201, 982.515, and 982.516).
- d. Select tenants from the HCVP waiting list (see "N.1, Selection from the Waiting List") (24 CFR sections 982.202 through 982.207).
- e. Reexamine family income and composition at least once every 12 months and adjust the tenant rent and housing assistance payment as necessary using the documentation from third party verification (24 CFR section 982.516).

2. Eligibility of Group of Individuals or Area of Service Delivery - Not Applicable**3. Eligibility for Subrecipients - Not Applicable**

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. HUD-52681, *Voucher for Payment of Annual Contributions and Operating Statement (OMB No. 2577-0169)* - submitted annually.

2. Performance Reporting

HUD-52648, SEMAP Certification - *Addendum for Reporting Data for Deconcentration Bonus Indicator (OMB No. 2577-0215)* - PHAs with jurisdiction in metropolitan FMR areas have the option of submitting data to HUD with their annual SEMAP certifications on the percent of their tenant-based Section 8 families with children who live in, and who have moved during the PHA fiscal year to, low poverty census tracts in the PHA's principal operating area. Submission of this information with the SEMAP certification makes the PHA eligible for bonus points under SEMAP (24 CFR section 985.3(h)).

Key Line Items - The following line items contain critical information.

- a. Line 1a - Number of Section 8 families with children assisted by the HA in its principal operating area at the end of the last PHA fiscal year (FY) who live in low poverty census tracts.
- b. Line 1b - Total Section 8 families with children assisted by the PHA in its principal operating area at the end of the last PHA FY.
- c. Line 1c - Percent of all Section 8 families with children residing in low poverty census tracts in the PHA's principal operating area at the end of the last PHA FY.
- d. Line 2a - Percent of all Section 8 families with children residing in low poverty census tracts at the end of the last completed PHA FY.
- e. Line 2b - Number of Section 8 families with children who moved to low poverty census tracts during the last completed PHA FY.
- f. Line 2c - Number of Section 8 families with children who moved during the last completed PHA FY.

3. Special Reporting

HUD-50058, *Family Report (OMB No. 2577-0083)* - The PHA is required to submit this form electronically to HUD each time the PHA completes an admission, annual reexamination, interim reexamination, portability move-in, or other change of unit for a family. The PHA must also submit the Family Report when a family ends participation in the program or moves out of the PHA's jurisdiction under portability (24 CFR part 908 and 24 CFR section 982.158).

Key Line Items - The following line items contain critical information.

- (1) Line 2a - *Type of Action*
- (2) Line 2b - *Effective Date of Action*
- (3) Line 3b, 3c - *Names*
- (4) Line 3e - *Date of Birth*
- (5) Line 3n - *Social Security Numbers*
- (6) Line 5a - *Unit Address*
- (7) Line 5h, 5i - *Unit Inspection Dates*
- (8) Line 7i - *Total Annual Income*
- (9) Lines 2k and 17a - *Family's Participation in the Family Self Sufficiency (FSS) Program*
- (10) Line 17k(2) - *FSS Account Balance*

N. Special Tests and Provisions

1. Selection from the Waiting List

Compliance Requirement - The PHA must have written policies in its HCVP administrative plan for selecting applicants from the waiting list and PHA documentation must show that the PHA follows these policies when selecting applicants for admission from the waiting list. Except as provided in 24 CFR section 982.203 (Special admission (non-waiting list)), all families admitted to the program must be selected from the waiting list. "Selection" from the waiting list generally occurs when the PHA notifies a family whose name reaches the top of the waiting list to come in to verify eligibility for admission (24 CFR sections 5.410, 982.54(d), and 982.201 through 982.207).

Audit Objective - Determine whether the PHA is following its own selection policies in selecting applicants from the waiting list to become participants.

Suggested Audit Procedures

- a. Review the PHA's applicant selection policies.
- b. Test a sample of new participants admitted to the program to ascertain if they were selected from the waiting list in accordance with the PHA's applicant selection policies.
- c. Test a sample of applicant names that reached the top of the waiting list to ascertain if they were admitted to the program or provided the opportunity to be admitted to the program in accordance with the PHA's applicant selection policies.

2. Reasonable Rent

Compliance Requirement - The PHA's administrative plan must state the method used by the PHA to determine that the rent to owner is reasonable in comparison to rent for other comparable unassisted units. The PHA determination must consider unit attributes such as the location, quality, size, unit type, and age of the unit, and any amenities, housing services, maintenance and utilities provided by the owner.

The PHA must determine that the rent to owner is reasonable at the time of initial leasing. Also, the PHA must determine reasonable rent during the term of the contract: (a) before any increase in the rent to owner; and (b) at the HAP contract anniversary if there is a five percent decrease in the published Fair Market Rent (FMR) in effect 60 days before the HAP contract anniversary. The PHA must maintain records to document the basis for the determination that rent to owner is a reasonable rent (initially and during the term of the HAP contract) (24 CFR sections 982.4, 982.54(d)(15), 982.158(f)(7), and 982.507).

Audit Objective - Determine whether the PHA is documenting the determination that the rent to owner is reasonable in accordance with the PHA's administrative plan at initial leasing and during the term of the contract.

Suggested Audit Procedures

- a. Review the PHA's method in its administrative plan for determining reasonable rent.
- b. Test a sample of leases for newly leased units and ascertain if the PHA has documented the determination of reasonable rent in accordance with the PHA's administrative plan.
- c. Test a sample of leases for which the PHA is required to determine reasonable rent during the term of the HAP contract and ascertain if the PHA has documented the determination of reasonable rent in accordance with the PHA's administrative plan.

3. Utility Allowance Schedule

Compliance Requirement - The PHA must maintain an up-to-date utility allowance schedule. The PHA must review utility rate data for each utility category each year and must adjust its utility allowance schedule if there has been a rate change of 10 percent or more for a utility category or fuel type since the last time the utility allowance schedule was revised (24 CFR section 982.517).

Audit Objective - Determine whether the PHA has reviewed utility rate data within the last 12 months and has adjusted its utility allowance schedule if there has been a rate change of 10 percent or more in a utility category or fuel type since the last time the utility allowance schedule was revised.

Suggested Audit Procedures

- a. Review PHA procedures for obtaining and reviewing utility rate data each year.
- b. Test data on utility rates that the PHA obtained during the last 12 months and ascertain, based on data available at the PHA, if there has been a change of 10 percent or more in a utility rate since the last time the utility allowance schedule was revised, and if so, verify that the PHA revised its utility allowance schedule to reflect the rate increase.

4. Housing Quality Standards Inspections

Compliance Requirement - The PHA must inspect the unit leased to a family at least annually to determine if the unit meets Housing Quality Standards (HQS) and the PHA must conduct quality control reinspections. The PHA must prepare a unit inspection report (24 CFR sections 982.158(d) and 982.405(b)).

Audit Objective - Determine whether the PHA documented the required annual HQS inspections and quality control reinspections.

Suggested Audit Procedure

- a. Review the PHA's procedures for performing HQS inspections and quality control reinspections.
- b. Test a sample of units for which rental assistance was paid during the fiscal year and review inspection reports to ascertain if the unit was inspected.
- c. Review the PHA's reports of reinspections to ascertain if quality control reinspections were performed.

5. HQS Enforcement

Compliance Requirement - For units under HAP contract that fail to meet HQS, the PHA must require the owner to correct any life threatening HQS deficiencies within 24 hours after the inspections and all other HQS deficiencies within 30 calendar days or

within a specified PHA-approved extension. If the owner does not correct the cited HQS deficiencies within the specified correction period, the PHA must stop (abate) HAPs beginning no later than the first of the month following the specified correction period or must terminate the HAP contract. The owner is not responsible for a breach of HQS as a result of the family's failure to pay for utilities for which the family is responsible under the lease or for tenant damage. For family-caused defects, if the family does not correct the cited HQS deficiencies within the specified correction period, the PHA must take prompt and vigorous action to enforce the family obligations (24 CFR sections 982.158(d) and 982.404).

Audit Objective - Determine whether the PHA documented enforcement of the HQS.

Suggested Audit Procedures

- a. Select a sample of units with failed HQS inspections during the audit period from the PHA's logs or records of failed HQS inspections.
- b. Verify that the files document that the PHA required correction of any cited life threatening HQS deficiencies within 24 hours of the inspection and of all other HQS deficiencies within 30 calendar days of the inspection or within an PHA-approved extension.
- c. If the correction period has ended, verify that the files contain a unit inspection report or evidence of other verification documenting that any PHA-required repairs were completed.
- d. Where the file shows that the owner failed to correct the cited HQS deficiencies within the specified time frame, verify that documents in the file show that the PHA properly stopped (abated) HAPs or terminated the HAP contract.
- e. Where the file shows that the family failed to correct the cited HQS deficiencies within the specified time frame, verify that documents in the file show that the PHA took action to enforce the family obligations.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CFDA 14.872 PUBLIC HOUSING CAPITAL FUND (CFP)

I. PROGRAM OBJECTIVES

The objective of the Capital Fund Program (CFP) is to make assistance available to public housing agencies (PHAs) to carry out capital and management improvement activities. The CFP is the major source of funding made available by HUD to PHAs for their capital activities, including modernization and development of public housing.

The objectives of modernization activities are to improve the physical condition of existing public housing developments, including the redesign, reconstruction, addition, and reconfiguration of public housing sites, buildings, facilities and/or related appurtenances or improvements (including accessibility improvements).

The objectives of management improvement activities are to upgrade the operation of PHA developments, sustain physical improvements at those developments, or correct management deficiencies.

The objectives of development activities are to provide PHAs with the opportunity to replace, build, or acquire units to house low-income families, including costs for planning, financing, land acquisition, demolition, and construction.

II. PROGRAM PROCEDURES

CFP grants are made available to all PHAs, based on formula after setting aside funds for a Reserve for Emergencies and Natural Disaster. HUD allocates one-half of the available Capital Fund amount based on the relative existing modernization needs of PHAs and the other one-half based on the relative accrual needs of PHAs. The calculated needs are summed to the PHA level. HUD collects objective measurable data about each PHA, such as the age of each development and the average number of bedrooms in each development, and uses this data to determine the PHA's share of the funds appropriated annually.

The PHA's annual allocation is based on existing modernization needs and accrual needs of all PHAs. Existing modernization needs are the cost of repairs and replacements beyond ordinary maintenance required to make the housing decent and sustainable with modest amenities. Accrual needs are the costs needed each year to cover expected ongoing repairs and replacements beyond ordinary maintenance--assuming that existing modernization needs are met.

In planning its modernization projects, the PHA is required to consult with residents and local government officials. After grant award, the PHA may select an architect or engineer through competitive negotiation to develop the plans and specifications for the construction work. Construction work, as well as management improvements, may be carried out through contract labor (competitively procured) or the PHA's own work force (force account). The PHA or its architect monitors the work in progress for compliance with contract requirements and acceptable work quality, and submits periodic progress reports to HUD.

In its development projects, the PHA functions as a developer, owner, and manager of housing projects. In a HUD-funded housing project, the PHA normally operates as the development manager. As a developer, the PHA is responsible for obtaining and maintaining local cooperation, for project planning, and for submitting the annual PHA Plan and any public housing proposal. This includes selecting sites or properties to be acquired, contracting with builders to construct or rehabilitate housing, contracting with developers for the purchase of completed (new or rehabilitated) housing, and purchasing existing housing which may require repairs. In addition, as a developer, the PHA is responsible for selecting and contracting with other parties (e.g., architects and engineers) and for expediting and coordinating the preparation of required HUD submissions.

On an annual basis, the PHA submits a Public Housing Agency Plan (*OMB No. 2577-0226*) to HUD. The Plan includes a component relative to the CFP activities the PHA plans to undertake with its annual allocation. A five-year plan identifying anticipated expenditures for large capital items is also included. Prior to submitting the Plan to HUD for review and approval, the PHA must hold a public hearing and provide residents, local government officials, and other interested parties with an opportunity to comment on the proposed activities.

Approval of the PHA Plan is in conjunction with the PHA fiscal year (FY), and that approval constitutes approval of the PHA's CFP grant. After the Plan is approved, which includes the PHA's budget for the CFP funds, HUD apportions the grant in the appropriate Budget Line Items (BLIs) in the Line of Credit Control System (LOCCS). The PHA can then drawdown funds as needed on a three-day turnaround basis to pay for approved work activities.

Source of Governing Requirements

This program is authorized under 42 USC 1437g and 3535 (d). Implementing regulations are 24 CFR parts 905, 941, and 968 subparts A and B.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed and Unallowed

1. Activities allowed include capital improvements as well as major repairs, management improvements, and planning costs and must be approved by HUD. HUD approval is provided generally in the approved PHA Plan, which includes the PHA's budget for CFP funds (24 CFR section 968.315). On an annual basis, the PHA provides HUD with its Annual Statement—Component 7 of the PHA Plan (HUD-50075, *OMB No. 2577-0226*) in accordance with 24 CFR section 968.325(e) which details the eligible activities to be funded with the current year's grant and the estimated costs. HUD reviews and approves the activities in the Annual Statement before the PHA can have access to the funds.

2. The PHA may not incur any modernization cost in excess of the total HUD-approved PHA Plan which includes the project budget. Budget revisions may be approved by HUD for deviations from the originally approved modernization program. A PHA shall not incur any modernization cost on behalf of any development that is not covered by the original PHA Plan (24 CFR section 968.225).

L. Reporting

1. **Financial Reporting** - Not Applicable

2. **Performance Reporting**

HUD-50075, *PHA Plans (OMB No. 2577-0226)*. The PHA submits an Annual Statement for each grant in which all funds have not been fully obligated and/or expended.

Key Line Items - The following line item contains critical information:

Component 7, Annual Statement, Capital Fund Program (CFP) Part III: Implementation Schedule.

3. **Special Reporting** - Not Applicable

IV. OTHER INFORMATION

In the 2002 Supplement, CFDA 14.852 and 14.859 were deleted and replaced by CFDA 14.872. If either CFDA 14.852 or 14.859 were audited as a major program under the March 2000 or 2001 Compliance Supplement during 2001 or 2002 respectively, then as part of the Type A program risk assessment under OMB Circular A-133, this program may be considered as having been audited in the prior year. (Since CFDA 14.852 was for PHAs with less than 250 units and CFDA 14.859 was for CFDA's with 250 or more units a single entity would not have qualified for both programs.)

DEPARTMENT OF THE INTERIOR**BIA CROSS-CUTTING SECTION****INTRODUCTION**

This section contains compliance requirements that apply to more than one program of the Bureau of Indian Affairs (BIA) in the Department of the Interior (DOI) because of requirements set forth in (1) the Indian Self Determination and Education Assistance Act (ISDEAA), as amended, and the Tribally Controlled Schools Act and (2) Section 111 of the Department of the Interior and Related Agencies Appropriations Act, 2002, (Pub. L. No. 107-63) regarding the investment and deposit of BIA funds advanced to tribal organizations pursuant to the provisions of the ISDEAA and Tribally Controlled Schools Act of 1988. The compliance requirements in this Cross-Cutting Section reference the applicable programs in Part 4, Agency Compliance Requirements. Similarly, the applicable programs in Part 4 reference this Cross-Cutting Section.

CFDA # Program Name**ISDEAA Programs**

15.021	Consolidated Tribal Government Program
15.022	Tribal Self-Governance
15.030	Indian Law Enforcement

Tribally Controlled Schools Act

15.042	Indian School Equalization Program
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I. PROGRAM OBJECTIVES

The ISDEAA, of which the Tribal Self-Governance Act is part, was implemented to establish meaningful Indian self-determination that will permit an orderly transition from the Federal domination of programs for, and services to, Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. The Tribally Controlled Schools Act provides a grant process for the operation of schools funded by the BIA.

II. PROGRAM PROCEDURES

The ISDEAA and the Tribally Controlled Schools Act allow tribal organizations to draw down funds in advance of need. The frequency and timing of the drawdowns are set forth in the statutes. The provision for advancing funds is to ensure sufficient capital for the delivery of program services.

The Tribal Self-Governance Act provides for advance payments to tribes and tribal consortia in the form of annual or semiannual payments at the discretion of the tribes (25 USC 458cc (g)(2)).

The ISDEAA provides for payments to Indian tribes and tribal organizations on a quarterly basis, in a lump-sum payment, or as semiannual payments or any other payment method authorized by law with such method as may be requested by the tribe or tribal organization (25 USC 450l(c)(b)(6)(B)(i)). The Tribally Controlled Schools Act provides for two payments per year: the first payment to be made not later than July 15 and the second payment not later than December 1 (25 USC 2507(a)(1)).

Regarding the use of these funds prior to their expenditure for the purposes for which they were intended, the Congress provided specific guidance in Section 111 of the Department of the Interior and Related Agencies Appropriations Act, 2002, Pub. L. No. 107-63, that allows these funds to be invested. Indian tribes and tribal organizations are not accountable to the BIA for the income earned from these investments (25 USC 450j(b)).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

B. Allowable Costs/Costs Principles

BIA programs in this Supplement that this section applies to are: Consolidated Tribal Government Program (15.021); and Indian Law Enforcement (15.030).

Indian tribes and tribal organizations may without the approval of the BIA expend funds provided under a self-determination contract for purposes identified in 25 USC 450j-1(j), including the following, to the extent that the expenditure of the funds is supportive of a contracted program (25 USC 450j-1(j)).

1. Building, realty, and facilities costs, including rental costs or mortgage expenses.
2. Automated data processing and similar equipment or services.
3. Costs for capital assets and repairs.
4. Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.
5. Interest expenses paid on capital expenditures such as buildings, building renovation or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under a contract.
6. Expenses of a governing body of a tribal organization that are attributable to the management or operation of programs under ISDEAA.

H. Period of Availability of Federal Funds

BIA programs in this Supplement that this section applies to are: Consolidated Tribal Government Program (15.021); Tribal Self-Governance (15.022); Indian Law Enforcement (15.030); and Indian School Equalization Program (15.042).

Any funds appropriated under an ISDEAA contract or compact or a Tribally Controlled Schools Act grant are available until expended (25 USC 450(c)(b)(9) and 25 USC 2507(b)(1)).

N. Special Tests and Provisions

1. Investment and Deposit of Advance Funds

BIA programs in this Supplement that this section applies to are: Consolidated Tribal Government Program (15.021); Tribal Self-Governance (15.022); Indian Law Enforcement (15.030); and Indian School Equalization Program (15.042).

Compliance Requirement - A tribe, tribal organization, or consortia receiving advance payments under the ISDEAA or the Tribally Controlled Schools Act may invest advance payments, before such funds are expended for the purposes of the grant, contract, or funding agreement, so long as such funds are (1) invested only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States or (2) deposited only in accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the advance funds, even in the event of a bank failure (Section 111 of the Department of the Interior and Related Agencies Appropriations Act of 2002, Pub. L. No. 107-63).

Audit Objective - Determine whether Indian tribes, tribal organizations, or consortia are properly investing or depositing advanced funds.

Suggested Audit Procedures

- a. Obtain and review tribal policies and procedures for the investment and deposit of funds.
- b. Review unused advances during the audit period and verify that unused funds were properly invested or deposited throughout the period.

DEPARTMENT OF THE INTERIOR

CFDA 15.021 CONSOLIDATED TRIBAL GOVERNMENT PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Consolidated Tribal Government Program is to provide funds for certain programs of an ongoing nature to Indian Tribal Governments in a manner which minimizes program administrative requirements and maximizes flexibility.

II. PROGRAM PROCEDURES

The Bureau of Indian Affairs (BIA) makes direct payments to Federally Recognized Indian Tribal Governments to carry out a variety of activities for which appropriations are made within the Tribal Priority Allocations activity of the BIA budget. For example, Scholarships, Johnson O'Malley, Job Placement and Training, and Agricultural Extension could be combined under a single contract for education and training. This allows tribal contractors greater flexibility in planning their programs and meeting the needs of their people. The simplified contracting procedures and reduction of tribal administrative costs allow for increased services under these contracts.

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Title I, Pub. L. No. 93-638, as amended (25 USC 450 *et seq.*).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple BIA programs are discussed once in the BIA Cross-Cutting Section of this Supplement (page 4-15.000-1) rather than repeating in each individual program.

A. Activities Allowed or Unallowed

The ISDEAA provides for the expenditure of funds by Indian tribes and tribal organizations under self-determination contracts for programs and activities previously provided by the BIA. Funds may be used for a variety of programs and services that the Federal government otherwise would have provided directly. The specific activities allowed will be indicated in the self-determination contract between the tribal organization and the Secretary of the Interior (25 USC 450f). While the tribe or tribal

organization may propose to redesign the program or activity, such redesign must be approved by the BIA (25 USC 450j(j)).

B. Allowable Costs/Costs Principles

See BIA Cross-Cutting Section.

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

See BIA Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR

CFDA 15.022 TRIBAL SELF-GOVERNANCE

I. PROGRAM OBJECTIVES

The objective of the Tribal Self-Governance program is to further the goals of Indian Self-Determination by providing funds to Indian tribes to administer a wide range of programs with maximum administrative and programmatic flexibility.

II. PROGRAM PROCEDURES

The Tribal Self-Governance Act of 1994 (25 USC 458aa *et seq.*) established tribal self-governance as a permanent option for tribal governments. Under tribal self-governance, Indian tribes have greater control and flexibility in the use of funds, reduced reporting requirements, and authority to redesign or consolidate programs, services, functions, and activities. Tribes are selected from an applicant pool upon meeting certain eligibility requirements.

The Office of Self-Governance makes direct payments to Federally Recognized Indian Tribal Governments and tribal consortia authorized by Federally Recognized Indian Tribal Governments. Funds may be used to support tribal programs such as law enforcement, social services, welfare payments, natural resource management and enhancement, housing improvement, and road maintenance (25 USC 458cc(b)).

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Title IV, Pub. L. No. 93-638, as amended (25 USC 458aa *et seq.*).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple Bureau of Indian Affairs (BIA) programs are discussed once in the BIA Cross-Cutting Section of this Supplement (page 4-15.000-1) rather than repeating in each individual program.

A. Activities Allowed or Unallowed

The ISDEAA provides for the expenditure of funds by Indian tribes and tribal organizations under self-determination contracts or annual funding agreements for programs and activities previously provided by the BIA. Funds may be used for a variety of programs and services that the Federal government otherwise would have provided

directly. The specific activities allowed will be indicated in the funding agreement between the tribal organization and the Secretary of the Interior (25 USC 458cc(b) and (c)). Indian tribes and tribal consortia are provided latitude in redesigning programs and activities. However, such redesign is limited to programs covered by the annual funding agreement (25 USC 458cc(b)(3)).

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

N. Special Tests and Provisions

See BIA Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR**CFDA 15.030 INDIAN LAW ENFORCEMENT****I. PROGRAM OBJECTIVES**

The objective of the Indian Law Enforcement program is to provide funds to Indian Tribal Governments to operate police departments and detention facilities.

II. PROGRAM PROCEDURES

The Bureau of Indian Affairs (BIA) makes direct payments to Federally Recognized Indian Tribal Governments exercising Federal criminal law enforcement authority over crime under the Major Crimes Act (18 USC 1153) on their reservations. Funds may be used for salaries and related expenses of criminal investigators, uniformed officers, detention officers, radio dispatchers, and administrative support.

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Pub. L. No. 93-638, as amended (25 USC 450 *et seq.*) and the Indian Law Enforcement Reform Act, Pub. L. No. 101-379 (25 USC 2801 *et seq.*).

Availability of Other Program Information

Part 40 of the Indian Affairs Manual provides information applicable to all law enforcement programs operated by an Indian tribe or tribal organization under a Self-Determination contract. Part 40 does not apply to Indian tribes which have negotiated Self-Governance compacts. The manual is available on the Internet (<http://www.doi.gov/bia/iams/iamtoc.htm>).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple BIA programs are discussed once in the BIA Cross-Cutting Section of this Supplement (page 4-15.000-1) rather than repeating in each individual program.

A. Activities Allowed or Unallowed

The ISDEAA provides for the expenditure of funds by Indian tribes and tribal organizations under self-determination contracts for programs and activities previously provided by the BIA. Funds may be used for a variety of programs and services that the Federal government otherwise would have provided directly. The specific activities

allowed will be indicated in the self-determination contract between the tribal organization and the Secretary of the Interior (25 USC 450f). While the tribe or tribal organization may propose to redesign the program or activity, such redesign must be approved by the BIA (25 USC 450j(j)).

B. Allowable Costs/Costs Principles

See BIA Cross-Cutting Section.

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

See BIA Cross-Cutting Section.

DEPARTMENT OF THE INTERIOR**CFDA 15.042 INDIAN SCHOOL EQUALIZATION PROGRAM****I. PROGRAM OBJECTIVES**

The objective of the Indian School Equalization Program is to provide funding for elementary and secondary education.

II. PROGRAM PROCEDURES

The Office of Indian Education Programs makes direct payments to Federally Recognized Indian Tribal Governments or tribal organizations currently served by a Bureau of Indian Affairs (BIA) funded school. Funds may be used for the education of Indian children in BIA funded schools. Funds may not be used for construction.

Source of Governing Requirements

The program is authorized by the Indian Self-Determination and Education Assistance Act (ISDEAA), Pub. L. No. 93-638, as amended (25 USC 450 *et seq.*), Indian Education Amendments of 1978, Pub. L. No. 95-561 (25 USC 2001 *et seq.*), and Tribally Controlled Schools Act (25 USC 2501 *et seq.*).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple BIA programs are discussed once in the BIA Cross-Cutting Section of this Supplement (page 4-15.000-1) rather than repeating in each individual program.

A. Activities Allowed or Unallowed

The expenditure of funds are restricted to those Federal programs covered by the grant. The Tribally Controlled Schools Act provides for the expenditure of funds by Indian tribes and tribal organizations under grants for education related programs and activities including school operations, academic, educational, residential, guidance and counseling, and administrative purposes, and support services for the school, including transportation (25 USC 2503).

H. Period of Availability of Federal Funds

See BIA Cross-Cutting Section.

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable only if specifically required in the grant agreement.
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable**3. Special Reporting - Not Applicable****N. Special Tests and Provisions**

Also, see BIA Cross-Cutting Section.

1. Character Investigations by Indian Tribes and Tribal Organizations

Compliance Requirement - The Indian Child Protection and Family Violence Prevention Act (25 USC section 3201 *et seq.*) requires Indian tribes and tribal organizations that receive funds under the ISDEAA or the Tribally Controlled Schools Act to conduct an investigation of the character of each individual who is employed or is being considered for employment by such Indian tribe or tribal organization in a position that involves regular contact with, or control over, Indian children. The Act further states that the Indian tribe or tribal organization may employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under subpart B - Minimum Standards of Character and Suitability for Employment (25 CFR part 63), as the Indian tribe or tribal organization establishes.

Audit Objective - Determine whether Indian tribes and tribal organizations are performing the required background character investigations of school employees.

Suggested Audit Procedures

- a. Obtain and review policies and procedures for the performance of background investigations.
- b. Perform tests of selected security and personnel files of employees occupying positions that have regular contact with or control over Indian children to verify:

- (1) A suitability determination was conducted by an appropriate adjudicating official who themselves were the subject of a favorable background investigation (25 CFR section 63.17(c)).
- (2) The background investigation covered the past five years of the individual's employment, education, etc. (25 CFR section 63.16(b)).
- (3) A security investigation was obtained and compared to the employment application (25 CFR section 63.17(e)(1)).
- (4) Written record searches were obtained from local law enforcement agencies, former employers, former supervisors, employment references, and schools (25 CFR section 63.17(e)(2)).
- (5) Fingerprint charts were compared to information maintained by the Federal Bureau of Investigation or other law enforcement information maintained by other agencies (25 CFR section 63.17(e)(3)).

DEPARTMENT OF THE INTERIOR**CFDA 15.605 SPORT FISH RESTORATION**
CFDA 15.611 WILDLIFE RESTORATION**I. PROGRAM OBJECTIVES**

The objective of the Federal Aid in Sport Fish Restoration program is to restore, conserve, and enhance sport fish populations and to provide for public use and enjoyment of these fishery resources.

The objective of the Federal Aid in Wildlife Restoration program is to restore, conserve, and enhance wildlife populations, provide for public use and enjoyment of these resources, and to provide training to hunters and archers in skills, knowledge, and attitudes necessary to be responsible hunters or archers.

II. PROGRAM PROCEDURES

The U.S. Fish and Wildlife Service makes program and project grants to State fish and game agencies with funds apportioned to each State through a statutory formula. States may submit either a comprehensive plan or project proposal to the Service. When either is approved, the State is generally reimbursed for up to 75 percent of the cost of the work performed.

Source of Governing Requirements

The Sport Fish Restoration Program is authorized by the Federal Aid in Sport Fish Restoration (Dingell-Johnson) Act (16 USC 777 through 777*l*). The Wildlife Restoration Program is authorized by the Federal Aid in Wildlife Restoration (Pittman-Robertson) Act (16 USC 669 through 669*i*). Program regulations are at 50 CFR part 80.

Availability of Other Program Information

Other program information is available on the U.S. Fish and Wildlife Service Grant Information site on the Internet at <http://fa.r9.fws.gov/grants/grantinf.html>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Wildlife Restoration Allowable Activities*

Specific allowable projects are specified in the grant agreements. Allowable projects shall have as their purpose:

- a. The restoration, conservation, management, and enhancement of wild birds and wild mammals, and the provision of public use of and benefits from these resources (50 CFR section 80.5(a)).
- b. Projects having as their purpose the education of hunters and archers in the skills, knowledges, and attitudes necessary to be a responsible hunter or archer (50 CFR section 80.5(a)).

2. *Sport Fish Restoration Allowable Activities*

Specific allowable projects are specified in the grant agreements. Allowable projects shall have as their purpose the restoration, conservation, management, and enhancement of sport fish, and the provision for public use and benefits from these resources (50 CFR section 80.5(b)(1)).

3. *Unallowable Activities*

The following activities are unallowable:

- a. With the exception of law enforcement activities to accomplish Federal project purposes as approved by the Regional Director of the U.S. Fish and Wildlife Service or to protect Federal aid assets, use of grant funds for enforcement of game and fish laws and regulations is prohibited (50 CFR section 80.6(a)).
- b. Public relations activities for the purpose of promoting organizations or agencies, including publication of agency magazines, displays, and exhibits, are ineligible except as they apply to educational or technical guidance activities specifically related to the accomplishment of Federal aid projects (50 CFR section 80.6(b)).
- c. Activities for the purpose of providing revenues are ineligible. These activities include the process and sale of licenses and permits and the acquisition of real or personal property for the purpose of using that property for rental, leases, sales or other commercial purposes. However, the production of incidental income, which results from otherwise eligible activities, is not prohibited (50 CFR section 80.14(c)).

F. Equipment and Real Property Management

Real property acquired or constructed with Federal funds shall continue to serve the purpose for which acquired or constructed. When property passes from management control of the State fish and wildlife agency, the control shall be fully restored to the State fish and wildlife agency or the real property shall be replaced using non-Federal funds. When property is used for purposes which interfere with the accomplishment of approved purposes, the violating activities shall cease and adverse effects be remedied (50 CFR section 80.14).

G. Matching, Level of Effort, Earmarking**1. Matching**

Federal participation is limited to 75 percent of eligible costs incurred in the completion of approved work or the Federal share specified in the grant agreement, whichever is less (50 CFR section 80.12).

2. Level of Effort - Not Applicable**3. Earmarking**

- a. *Indirect Costs Limitation* - The amount of overhead or indirect costs charged to the projects under these programs for central services provided from outside the fish and game agency may not exceed three percent of the annual apportionment to the State (50 CFR section 80.15(d)).
- b. *Aquatic Education* - Not more than 15 percent of the annual apportionment to each State under the provisions of the Federal Aid in Sport Fish Restoration Act may be used for aquatic education projects (16 USC 777g(c)).
- c. *Recreational Boating Access Facilities* - The State shall allocate at least 15 percent of each annual apportionment under the Federal Aid in Sport Fish Restoration Act for recreational boating access facilities (16 USC 777g(b)(1)).

H. Period of Availability of Federal Funds

Multi-year Financing Exception - States may finance the acquisition of lands and the construction of facilities using multi-year funding as authorized by the Federal Aid in Sport Fish Restoration Act (50 CFR section 80.25).

J. Program Income

Program income (e.g., timber sales, leases, fees) is often generated on land purchased, improved, or maintained with Federal funds. This program income may be generated years after the expenditure of Federal funds to purchase or improve the land (50 CFR section 80.4).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *Paid Hunting and Fishing License Certification (OMB Approval No.1018-0007)* - The State fish and wildlife agency shall certify annually the number of paid hunting and fishing license holders in the State. A paid license holder is one person, regardless of the number of licenses, tags, permits, or stamps held. Only licenses sold by the State or its designee in which revenues from the sale of the licenses are returned to the State fish and wildlife agency are to be included in the annual certificates. Free licenses or licenses issued for a token fee shall not be counted (50 CFR section 80.10).

N. Special Tests and Provisions

1. Assent Legislation and Diversion of License Fees

Compliance Requirement - A State may participate in the benefits of the Sport Fish and Wildlife program and the Wildlife Restoration program only after it has passed legislation for the conservation of fish and wildlife, including a prohibition against the diversion of license fees paid by hunters and sport fishermen to purposes other than for the administration of the fish and wildlife agency (50 CFR section 80.3).

License fees paid by hunters and fishermen, include any special license, permits, stamps, tags, or access fees. Also included are revenues for the sale, lease, or rental of items on

property purchased with Federal funds, as well as the interest or dividends earned on the license revenues (50 CFR section 80.4).

Administration of the State fish and wildlife agency includes only those functions required to manage the fish and wildlife-oriented resources of the State. Law enforcement activities for predator, animal, and rodent control are not administration of the State fish and wildlife agency (50 CFR section 80.4(b)).

Audit Objective - Determine whether revenues from license fees paid by hunters and sport fishermen are used only for the administration of the State fish and wildlife agency.

Suggested Audit Procedures

- a. Ascertain if there are legislative prohibitions in place to prevent diversion of license revenues.
- b. Perform tests to ascertain if hunting and sport fishing license revenue was properly accounted for and restricted for use for the administration of the State fish and wildlife agency.
- c. Test expenditures from the license fees paid by hunters and sport fisherman to ascertain if they were used for the administration of the State fish and wildlife agency.
- d. Perform procedures to ascertain if there were any transfers from the State fish and wildlife agency which divert license fees paid by hunters and sport fisherman from the administration of the State fish and wildlife agency.

DEPARTMENT OF JUSTICE**CFDA 16.579 BYRNE FORMULA GRANT PROGRAM****I. PROGRAM OBJECTIVES**

The Byrne Formula Grant Program (Byrne grants) provides funds to States, for use by State and local governments, to improve the functioning of the criminal justice system, with emphasis on drugs, violent crime and serious offenders, and to enforce State and local laws that establish offenses similar to those established in the Federal Controlled Substances Act (21 USC 801 *et seq.*).

II. PROGRAM PROCEDURES

Byrne grants are awarded to the States, which, in turn, subaward the funds to State and local agencies. Each State is required to develop a statewide drug control and violent crime strategy as part of its application for funds. Strategies are developed in consultation with State and local criminal justice officials and are coordinated with the treatment and prevention block grant programs. Each State shall distribute to local units of governments a share of the State's formula grant funds that is equal to the ratio of all local criminal justice expenditures to the total criminal justice expenditures for the State.

Grants may provide personnel, equipment, training, technical assistance, and information systems for more widespread apprehension, prosecution, adjudication, detention, and rehabilitation of persons who violate such laws, and may provide assistance (other than compensation) to their victims.

Byrne grant funds may be used for confidential expenditures such as the purchase of services, physical evidence, and information, and for "buy money," and "flash rolls." By the very nature of this use, some traditional accounting controls may be impossible to implement, once funds are in the field. In addition, the personnel administering these funds are exposed to extreme risk in terms of bodily harm or death. Guidelines for the control of confidential funds are found in the Office of Justice Programs, Office of the Comptroller, Financial Guide (Chapter 8). Each grant recipient is provided a copy of this guide. Additional copies can be obtained from the Office of Justice Programs, Office of the Comptroller, Customer Service Center at 1-800-458-0786, or on the Internet (www.ojp.usdoj.gov/oc).

Source of Governing Requirements

This program is authorized under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (Act) and codified at 42 USC 3750-3766b, Drug Control and System Improvement Grant Program.

Availability of Other Program Information

The Department of Justice's (DOJ), Bureau of Justice Assistance (BJA) home page (www.ojp.usdoj.gov/BJA/) under the selection titled Byrne Formula Grant Program provides

information on program laws (as part of Byrne Formula Grant Program Guidance and Application Kit) and other general information about the program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed and Unallowed

Byrne grants may be used to implement programs that carry out any of the 29 authorized purposes as outlined in the Act (42 USC 3751 (b)):

1. Demand-reduction education programs in which law enforcement officers participate.
2. Multi-jurisdictional task force programs to integrate Federal, State, and local drug law enforcement agencies and prosecutors for the purpose of enhancing interagency coordination and intelligence and facilitating multi-jurisdictional investigations.
3. Programs to target the domestic sources of controlled and illegal substances, such as precursor chemicals, diverted pharmaceuticals, clandestine laboratories, and cannabis cultivations.
4. Community and neighborhood programs to assist citizens in preventing and controlling crime, including special programs that address crimes committed against the elderly and crime in rural jurisdictions.
5. Programs to disrupt illicit commerce in stolen goods and property.
6. Programs to improve the investigation and prosecution of white-collar crime, organized crime, public corruption crime, and fraud against the government, with priority attention to cases involving drug-related official corruption.
7.
 - a. Programs to improve the operational effectiveness of law enforcement through the use of crime analysis techniques, street sales enforcement, schoolyard violator programs, and gang-related and low-income housing drug-control programs.
 - b. Programs to develop and implement antiterrorism plans for deep draft ports, international airports, and other important facilities.
8. Career criminal prosecution programs, including the development of model drug-control legislation.

9. Financial investigative programs to identify money laundering operations and assets obtained through illegal drug trafficking, including the development of model legislation, financial investigative training, and financial information-sharing systems.
10. Programs to improve the operational effectiveness of the court process by expanding prosecutorial, defender, and judicial resources and implementing court delay reduction programs.
11. Programs to provide additional public correctional resources and improve the corrections system, including treatment in prisons and jails, intensive supervision programs, and long-range corrections and sentencing strategies.
12. Prison industry projects to place inmates in a realistic working and training environment that enables them to develop marketable skills. With these skills inmates also are better able to support their families and themselves in the institution and make financial restitution to their victims.
13. Programs to identify and meet the treatment needs of adult and juvenile drug-and alcohol-dependent offenders.
14. Programs to provide assistance to jurors and witnesses and assistance (other than compensation) to victims of crime.
15.
 - a. Programs to improve drug-control technology such as pretrial drug-testing programs; programs to provide for the identification, assessment, referral to treatment, case management, and monitoring of drug-dependent offenders; and programs to enhance State and local forensic laboratories.
 - b. Criminal justice information systems to assist law enforcement, prosecution, courts, and corrections organizations (including automated fingerprint identification systems).
16. Programs to demonstrate innovative approaches to enforcement, prosecution, and adjudication of drug offenses and other serious crimes.
17. Programs to address the problems of drug trafficking and the illegal manufacture of controlled substances in public housing.
18. Programs to improve the criminal and juvenile justice system's response to domestic and family violence, including spouse abuse, child abuse, and abuse of the elderly.
19. Programs with which State and local units of government can evaluate State drug-control projects.

20. Programs to provide alternatives to detention, jail, and prison for persons who pose no danger to the community.
21. Programs to strengthen urban enforcement and prosecution efforts targeted at street drug sales.
22. Programs to prosecute driving-while-intoxicated charges and enforce other laws relating to alcohol use and the operation of motor vehicles.
23. Programs to address the need for effective bindover systems for the prosecution of violent 16- and 17-year-old juveniles for certain enumerated violent crimes in courts with jurisdiction over adults.
24. Law enforcement and prevention programs for gangs and youth who are involved in or are at risk of involvement in gangs.
25. Programs to develop or improve forensic laboratory capability to analyze DNA for identification purposes.
26. Programs to develop and implement antiterrorism training and procure equipment for local law enforcement authorities.
27. Programs to improve the quality, timeliness, and credibility of forensic science services for criminal justice services.
28. Enforcing child abuse and neglect laws, including laws protecting against child sexual abuse, and promoting programs designed to prevent child abuse and neglect.
29. Establishing or supporting cooperative programs between law enforcement and media organizations, to collect, record, retain, and disseminate information useful in the identification and apprehension of suspected criminal offenders.

Grant funds shall not be used for land acquisition or construction projects other than penal and correctional institutions (42 USC 3755).

G. Matching, Level of Effort, Earmarking

1. Matching

The Federal share may not exceed 75 percent of the cost of the program. The matching must be in cash and in-kind matching is not permitted. The 25 percent match is required on a project-by-project basis under this program, unless otherwise approved by the DOJ. The U. S. Virgin Islands, American Samoa, Guam, the Northern Marianas Islands and Federally recognized Indian Tribes are not required to provide matching funds (42 USC 3754 (a) and (e)).

2 Level of Effort - Not Applicable**3. Earmarking**

- a. Not more than 10 percent of a grant made to a State may be used by the State agency for costs incurred to administer the grant (42 USC 3754 (b)).
- b. Not less than 5 percent of the award shall be allocated by each State to improve criminal justice records (42 USC 3759 (a)).
- c. The State is required to pass through to units of local government a portion of the funds. This percentage will be stated in the grant award from DOJ (42 USC 3756).

H. Period of Availability of Funds

The grant period is stated in the grant award documents from DOJ and is 3 years from the beginning of the Federal fiscal year of the award, regardless of when the award is actually made. Extensions of the grant period may be granted by the DOJ.

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable**3. Special Reporting - Not Applicable**

DEPARTMENT OF JUSTICE**CFDA 16.710 PUBLIC SAFETY PARTNERSHIP AND COMMUNITY POLICING GRANTS (COPS)****I. PROGRAM OBJECTIVES**

The Community Oriented Policing Services (COPS) Grant Program provides grants to law enforcement agencies to add police officers or sheriff's deputies to America's neighborhood streets and advance community policing nationwide, with emphasis on reducing levels of crime, reducing the fear of crime, and increasing trust between law enforcement and the communities they serve through problem solving tactics and community-policing partnerships.

II. PROGRAM PROCEDURES

COPS grant programs are awarded to law enforcement agencies, large and small, across the country. The overall intent of the grant programs is to help develop an infrastructure that will sustain community policing.

COPS grants may provide personnel, technology, equipment, training and technical assistance, and innovative community policing strategies. The three main categories of grants are Hiring, MORE (Making Officer Redeployment Effective), and Innovative.

Hiring Grants

Of the COPS hiring grants, there are five types, which provide funds for the hiring of community policing officers and deputies under five grant programs:

- Phase I
- Accelerated Hiring, Education, and Deployment (AHEAD)
- Funding Accelerated for Smaller Towns (FAST)
- Universal Hiring Program (UHP)
- COPS in Schools (CIS)

COPS MORE

The COPS MORE program allows law enforcement agencies to purchase technology and equipment or hire civilian support staff, allowing sworn officers to be redeployed back to the streets engaging in community policing initiatives. Equipment such as laptop computers, records management systems, and crime analysis and mapping software support community-based efforts and improve problem solving.

Innovative Grants

The Innovative grant programs promote innovative approaches to crime prevention and advancing community policing. For example, working with the Justice Department's Violence Against Women Office, COPS funded Community Policing to Combat Domestic Violence grants to assist communities to fight domestic violence through community policing. The School-Based Partnership Program assists community and school groups to partner with community police to stop violence. The COPS Methamphetamine Initiative targets prevention and eradication efforts in urban and rural America.

Source of Governing Requirements

This program is authorized under the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, Title I, Part Q (42 USC 3796dd - 3796dd-8).

Availability of Other Program Information

The Department of Justice's (DOJ), COPS homepage (www.usdoj.gov/cops/) under the selection titled Grant, Programs and Activities provides information on regulations and other general information about the program.

Additional information about this program is found in the Grant Owner's Manuals developed by the COPS Office. Each grant recipient is provided a copy of appropriate manuals. Additional copies can be obtained from the U.S. Department of Justice Response Center at 1-800-421-6770, or on the Internet site referenced above. The Grant Monitoring Standards for Hiring and Redeployment are also available on the COPS homepage.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Hiring Grant Projects* - Hiring grants may include programs, projects, and other activities to:
 - a. Rehire law enforcement officers who have been laid off as a result of State and local budget reductions for financial reasons unrelated to the availability of COPS grant funding for redeployment into community-oriented policing;
 - b. Hire and train new, additional career law enforcement officers for deployment in community-oriented policing (42 USC 3796dd(b)(1)); and

- c. Hire former members of the Armed Forces to serve as career law enforcement officers for deployment in community-oriented policing (42 USC 3796dd(c)).
2. *MORE Grant Projects* - MORE grants may include programs, projects, and other activities to procure equipment, technology, or support systems that results in an increase in the number of officers deployed in community- policing activities (42 USC 3796dd(b)(1)(C)).
3. *Innovative Grant Projects* - These grants include programs and projects that are very specific in terms of allowable and unallowable costs and activities. The individual grant must be evaluated to determine what is allowable (42 USC 3796dd(d)).

B. Allowable Costs/Cost Principles

Hiring Costs - Funding provided for the hiring or rehiring a career law enforcement officer may not exceed \$75,000 for UHP unless a waiver of this limitation is provided by the COPS Office. The CIS program provides up to \$125,000 per officer for approved entry-level salary and benefit costs over a three-year grant period. Any additional funding needed for salary and benefit costs exceeding \$125,000 per officer during the three-year period is the responsibility of the grant recipient (42 USC 3796dd-3(c)).

G. Matching, Level of Effort, Earmarking

1. Matching

The grantee is obligated to contribute at least 25 percent of the costs of the project or activity, as funded by the COPS Office, unless a waiver is obtained from the COPS Office. Grant awards may cover up to 75 percent of the costs over the grant period as outlined in the application submission (42 USC 3796dd(i)).

2 Level of Effort - Not Applicable

3. Earmarking - Not Applicable

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transaction Report* - Not Applicable

2. Performance Reporting

- a. *Department Annual Report (OMB No. 1103-0030)* - This report is required once a year during the life of the grant for all COPS Hiring grants.

Key Line Items - The following questions contain critical information.

1. Question 1 - Number of actual full and part time sworn law enforcement officer positions, excluding COPS-funded officers.
2. Question 2 - Number of budgeted full and part time sworn law enforcement officer positions, excluding COPS-funded officers.

3. Special Reporting - Not Applicable

DEPARTMENT OF LABOR

CFDA 17.207 EMPLOYMENT SERVICE
CFDA 17.801 DISABLED VETERANS' OUTREACH PROGRAM (DVOP)
CFDA 17.804 LOCAL VETERANS' EMPLOYMENT REPRESENTATIVE
PROGRAM (LVER)

I. PROGRAM OBJECTIVES**Employment Service (ES) - General**

The United States Employment Service (USES) is established within the Department of Labor and promotes the establishment and maintenance of a national system of public employment service offices.

The basic purpose of the Employment Service system is to improve the functioning of the nation's labor markets by bringing together individuals who are seeking employment and employers who are seeking workers. The objectives of the Employment Service Program are to: (1) provide employment-related services to unemployed individuals and other job seekers; (2) refer qualified job applicants and provide technical assistance to employers; (3) to perform a variety of employment-related activities to facilitate the provision of basic services to individuals and employers; and (4) to participate in a labor clearinghouse for inter-state activities (20 CFR sections 652.2 and 652.3).

Disabled Veterans' Outreach Program (DVOP)

The objectives of the DVOP are: (1) to provide jobs and job training opportunities for disabled and other veterans through contacts with employers; (2) promote and develop on-the-job training and apprenticeship and other on-the-job training positions within Federal job training (e.g., WIA, VA programs); (3) provide outreach to veterans through all community agencies and organizations; (4) provide assistance to community-based groups and organizations and appropriate grantees under other Federal and Federally funded employment and training programs; (5) develop linkages with other agencies to promote maximum employment opportunities for veterans; and (6) to provide job placement, counseling, testing, job referral to eligible veterans, especially disabled veterans of the Vietnam era, utilizing a case-management approach to services, wherever applicable.

Local Veterans' Employment Representative Program (LVER)

The objectives of the LVER program are to provide job development, placement, and support services to veterans and to ensure that there is local supervision of State Employment Service/Job Service compliance with Federal regulations, performance standards, and grant agreement provisions in carrying out requirements of 38 USC 4104 in providing veterans with the maximum employment and training opportunities.

II. PROGRAM PROCEDURES

Employment Service (ES)

Federal funds are granted to the States for establishing and maintaining local public employment offices through which the States administer both Federal and state employment service programs.

The state agency responsible for the provision of employment services, generically referred to as the State Employment Security Agency (SESA), must submit a five-year plan for providing services and activities authorized by Section 7(a) of the Act, through the Governor, to the Department of Labor (20 CFR section 652.211). This part of the State plan is submitted under Section 112 of WIA. The Governor has discretion to choose various approaches to planning the utilization of funds reserved by Section 7(b) of the Act.

LVER and DVOP Programs

Grant funds are provided to State employment security agencies for employing Local Veteran's Employment Representatives (LVERs) and other staff at each Service Delivery Point (SDP) where the public labor exchange function is offered in order to ensure that eligible veterans receive maximum employment and training opportunities. Priority is given to disabled veterans, veterans of the Vietnam-era, and other eligible veterans by giving them preference over non-veterans in the provision of employment and training services available at each SDP where the public labor exchange function is offered (20 CFR section 1001.120).

Source of Governing Requirements

This program is authorized by the Wagner-Peyser Act, (Act) as amended by the Workforce Investment Act of 1999 (WIA) (Pub. L. No. 105-220) (29 USC 49 *et seq.*; 38 USC chapters 41 and 42 (veterans programs)). Implementing regulations are found in 20 CFR part 652.

Availability of Other Program Information

Other program information is available on the Internet at <http://wdr.doleta.gov/directives/>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Labor Exchange* - Funds allotted to each State may be utilized by the SESA for a variety of activities, consistent with an approved plan pursuant to the Act and implementing regulations (20 CFR sections 652.5 and 652.8(d)). At a minimum, each SESA shall provide the basic labor exchange elements defined in 20 CFR section 652.3.
2. *Section 7(a)* - Services and activities provided for by Section 7(a) of the Act are:
 - a. To unemployed individuals and other job seekers: job search, job placement and job information services, including counseling, testing, occupational and labor market information, assessment, and referral to employers;
 - b. To employers: a source for recruitment of qualified job applicants, and technical assistance in resolving workforce problems; and
 - c. The following employment-related activities:
 - (1) Evaluation of programs;
 - (2) Developing linkages between services funded under this Act and related Federal or State legislation, including the provision of labor exchange services at education sites;
 - (3) Providing employment-related services for workers who have received notice of permanent or impending layoff, and reemployment services for workers in occupations which are experiencing limited demand due to technological change, impact of imports, or plant closures;
 - (4) Developing and providing State and local labor market and occupational information;
 - (5) Developing a management information system and compiling and analyzing reports therefrom; and
 - (6) Administering the work test for the State unemployment compensation system, and providing job finding and placement services for unemployment insurance claimants (29 USC 49f(a); 20 CFR section 652.210).
3. *Section 7(b)* - Services and activities provided for by Section 7(b) of the Act are:
 - a. Performance incentives for public employment service offices and programs, consistent with performance standards established by the Secretary;
 - b. Services for groups with special needs carried out pursuant to joint agreements between the Employment Service and the local workforce investment board and Chief Elected Official(s), or other public agencies or private nonprofit organizations; and
 - c. Exemplary models for delivering traditional Employment Service Program services under Section 7(a) of the Act (29 USC 49f(b)).

4. *Section 7(d)* - In addition to the activities described under 2 and 3, above, Section 7(d) of the Act authorizes SESAs to perform such other activities as shall be specified in cost-reimbursement agreements with the Secretary of Labor or with any Federal, State, or local public agency, or WIA administrative entity, or private nonprofit organization (29 USC 49f(d)).
5. *Section 7(e)* - Section 7 (e) provides that all services authorized under 7(a) shall be provided as part of a one-stop delivery system established by the State (29 USC 49f(e)).
6. *DVOP* - The Disabled Veterans Outreach Program includes a wide variety of services directly related to meeting the employment needs of disabled and other eligible veterans as defined at 38 USC 4103A(b)(1). These services include, but are not limited to, the following:
 - a. Development of job and job training opportunities through contacts with employers;
 - b. Outreach activities to locate eligible veterans;
 - c. Provision of assistance to community-based organizations and appropriate grantees under other Federal and federally funded employment and training programs in providing such services;
 - d. Provision of vocational guidance and vocational counseling services; and
 - e. Provision of services as a case manager.

A complete list of allowable services appears at 38 USC 4103A(c).

7. *DVOP Unallowable Activities* - DVOP program specialists shall be assigned only to those duties directly related to meeting the employment needs of eligible veterans (38 USC 4103A(b)(1)).
8. *LVER* - The Local Veterans' Employment Representative supervises the provision of a variety of services to eligible veterans. These services include, but are not limited to the following (38 USC 4104):
 - a. Maintain regular contact with community leaders, employers, labor unions, training programs, and veterans' organizations for the purpose of (1) keeping them advised of eligible veterans and eligible persons available for employment and training, and (2) keeping eligible veterans and eligible persons advised of opportunities for employment and training;
 - b. Provide directly, or facilitate the provision of, labor exchange services including intake and assessment, counseling, testing, job-search assistance, and referral and placement; and
 - c. Assist, through automated data processing, in securing and maintaining current information regarding available employment and training opportunities.

A complete list of allowable services appears at 38 USC 4104(b).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**

Ten percent of each State's Wagner-Peyser Act allotment shall be reserved by the SESA to provide services and activities authorized by Section 7(b) of the Act (29 USC 49f(b)).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - The SF-269 is used for the ES programs. It is not used for the DVOP and LVER programs.
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS 272 series of reports.
- e. VETS-300, *Cost Accounting Report, DVOP/LVER Programs (OMB No. 1205-0240)* - A separate quarterly report is required for each of the DVOP and LVER programs.

2. Performance Reporting - Not Applicable**3. Special Reporting** - Not Applicable

DEPARTMENT OF LABOR**CFDA 17.225 UNEMPLOYMENT INSURANCE (UI)****I. PROGRAM OBJECTIVES**

The Regular Compensation, Unemployment Compensation for Federal Employees (UCFE), and Unemployment Compensation for Ex-Servicemembers (UCX) programs provide Unemployment Compensation (UC) to unemployed workers for periods of involuntary unemployment and help stabilize the economy by maintaining the spending power of workers while they are between jobs. During periods of high unemployment, the Extended Benefits (EB) program pays UC for an additional (or extended) period of time to eligible unemployed workers who have exhausted their entitlement to Regular Compensation.

States must ensure full payment of UC "when due," and must deny payments when not due (42 USC 503(a)(1)).

II. PROGRAM PROCEDURES

The UI program, also referred to as UC, initially consisted solely of the regular State programs. However, UC coverage was extended to Federal civilian employees in 1954 by the UCFE program (Pub. L. No. 83-767), and to ex-members of the Armed Forces in 1958 by the UCX program (5 USC 8501-8525; Pub. L. No. 85-848). The Federal-State Extended Unemployment Compensation Act (EUCA) of 1970 (Pub. L. 91-373; 26 USC 3304 note) provided for an EB program (20 CFR part 615).

The structure of the Federal-State UI Program partnership is based upon Federal law; however, it is implemented primarily through State law. Unless otherwise noted, responsibilities of the U.S. Department of Labor (DOL) include: (1) allocating available administrative funds among States; (2) administering (U.S. Department of the Treasury) and monitoring activities of the Unemployment Trust Fund (UTF); (3) establishing program performance measures; (4) monitoring State performance; (5) ensuring conformity and substantial compliance of State law and operations with Federal law; and, (6) setting broad overall policy for program administration. State UI program operations are conducted by the State Employment Security Agency (SESA; the generic name for the agency which has responsibility for the State's Employment Security function).

State responsibilities include: (1) establishing specific, detailed policy and operating procedures which comply with the requirements of Federal laws and regulations; (2) determining the State UI tax structure; (3) collecting State UI contributions from employers (commonly called "unemployment taxes"); (4) determining claimant eligibility and disqualification provisions; (5) making payment of UC benefits to claimants; (6) managing the program's revenue and benefit administrative functions; (7) administering the programs in accordance with established policies and procedures; and, (8) enacting State UC law that conforms with Federal UC law.

About 97 percent of all wage and salary workers are covered by UC programs. In addition to the regular State programs, UC includes: the Regular Compensation Program, the EB Program, UCFE, and UCX. Each program has its own eligibility and benefit provisions.

Note: Informal references are frequently made to eligibility for "weeks" of UC. The auditor is cautioned eligibility is actually for DOLLAR AMOUNTS of UC, which is inaccurately referred to as receipt of UC for a given number of weeks.

Program Funding

UC payments to claimants are funded by State UI taxes on covered employers (three States have provisions for employee taxes), and reimbursements from Federal entities, certain State governments, political subdivisions and instrumentalities of the States, federally recognized Indian tribes, and qualified non-profit organizations. While "experience-rated" UI taxes on employers are the primary source of revenue for benefits, some employers make direct reimbursements to the State for UC payments made on their behalf. State governments, political subdivisions and instrumentalities of the States, and qualified non-profit organizations may reimburse the State for UC benefits paid by the SESA; however, they may elect to be contributory employers (i.e., remit State UI taxes) in lieu of reimbursing the State. Also, States are reimbursed from the UTF for UCFE and UCX paid by the SESA on behalf of various Federal entities. Program administration is funded by a Federal UI tax on covered employers (see below). Generally, the employment covered by State UI taxes and Federal UI taxes are the same; however, there are specific differences.

State UI taxes and reimbursements are used almost exclusively for the payment of regular UC and the State share of EB to eligible claimants. All UI taxes and reimbursements remitted by employers to the States are deposited in State accounts in the UTF. SESAs periodically draw funds from their UTF accounts for the purpose of making UC payments.

The Federal Unemployment Tax Act (FUTA) imposes a Federal tax on covered employers. Currently, the FUTA tax on covered employment (generally employment subject to a State UI tax) is 6.2 percent of the first \$7,000 of covered employee wages. Employers, however, receive two credits against the FUTA tax. One credit is equal to the amount of State UI tax paid by the employer. The employer receives this credit when the State UI law, and its application, conforms and substantially complies with FUTA requirements. A second credit is awarded only to employers in States which have a federally approved experience-rated State UI tax system. All States currently meet the Federal criteria for both credits to be applicable to the States' employers. The two credits combined cannot exceed 5.4 percent of taxable employee wages.

FUTA revenues from the remaining 0.8 percent are collected by the IRS and deposited into the general fund of the U.S. Treasury, which by statute are appropriated to the UTF. FUTA revenues are used primarily to finance Federal and SESA administrative expenses, the Federal share of EB, and advances to States whose UTF account balances are low or exhausted. DOL allocates available administrative grant funds (as appropriated by Congress) to States based on forecasted workload and costs and adjusted for increases or decreases in workload during the current year.

Synopsis of Regular Compensation Program

The regular compensation program provides UI coverage of most wage and salary workers in each State, the District of Columbia, Puerto Rico, and the Virgin Islands. Except for provisions necessary to comply with Federal law, the provisions of State UI laws vary greatly, including their qualifying requirements and methods used to compute UC amounts.

The period during which a claimant may receive UC is referred to as the "benefit year." In all but one State, a benefit year lasts one year from the effective date of the claim. The total regular UC that a claimant may receive in a benefit year is computed by the SESA in a dollar amount. A claimant may draw UC against the total UC allowable for the benefit year during periods of unemployment that occur during the benefit year. Under State UI laws, the total (maximum) UC a claimant is entitled to varies within certain limits according to the worker's wages in the base period (see Eligibility). Reduced benefits may be paid for weeks of partial unemployment. In some States, the weekly UC benefit payment is augmented by a dependent's allowance.

The entitlement to UC (both regular compensation and EB) is frequently and imprecisely expressed in lay terms as receipt of UC for a given number of weeks.

Synopsis of Extended Benefits Program

An interval of high unemployment at a certain level will "trigger on" a period of not less than 13 consecutive weeks during which the State will make extended UC (or EB) payments to eligible unemployed workers who have exhausted their entitlement to regular compensation (20 CFR section 615.11). With certain qualifications, EB is payable at the same rate as the claimant's regular compensation amount (20 CFR section 615.6). The EB period is determined by the State in which the original claim was established (EUCA section 202(a)(2), 20 CFR section 615.2(k)(2)). A reduction in the unemployment rate will "trigger off" the period for the payment of EB.

A claimant may receive EB equal to the lesser of the following amounts: (a) one-half the total amount of regular compensation, including dependent's allowances, (b) 13 times the weekly amount of regular compensation, or (c) 39 times the weekly amount of regular compensation reduced by the amount of Regular Compensation paid to the claimant (EUCA, section 202(a)(2), 20 CFR section 615.7(b)). However, the qualifying and benefit provisions of the EB program change if the unemployment rate assumes a benchmark level established in EUCA. While EB are payable under the terms and conditions of State law, FUTA requires that State UI law conform to certain provisions of EUCA (26 USC 3304(a)(11)).

States are reimbursed with Federal funds for one-half the cost of EB paid to claimants by the SESAs, with the following exceptions: (1) EB paid to former UCFE and UCX claimants are 100 percent reimbursable from Federal funds; and, (2) EB paid to former employees of the State government, and political subdivisions and instrumentalities of the State, and federally recognized Indian tribes are not reimbursable from Federal funds. Reimbursements will be prorated for claimants who had employment in both the private and public sectors during their "base periods." The first week of EB is reimbursable to the State only if the State requires the first week in an individual's benefit year be an unpaid "waiting week" (EUCA section 204; 20

CFR section 615.14). The auditor should refer to 20 CFR section 615.14 for a complete explanation of when EB is not reimbursed to the State.

Employer Experience Rating

States annually compute an "experience-rating" for contributing, or tax-remitting, employers. The experience-rating is the dominant factor in the computation of an employer's State UI tax rate. While methods of computation differ, the key factor in most methodologies is the amount of UC paid by the SESA within a time period specified by State UI law, to claimants who are former employees of the employer. Also, various methods are used by the SESAs to identify which one or more of the claimant's former employers will be "charged" with the UC paid to the claimant.

Synopsis of UCFE and UCX Programs

For UCFE, the qualifying requirements, determination of UC benefit amounts, and duration of UC are generally determined under the applicable State law, which is generally the State in which the official duty station was located (5 USC chapter 85; 20 CFR part 609).

The UCX program combines elements of the applicable State law and factors unique to the UCX program, such as "schedules of remuneration" (20 CFR section 614.12), which must be considered by the SESA in making its determinations of eligibility, UC benefit amounts and duration (5 USC Chapter 85; 20 CFR part 614).

States are reimbursed from the UTF for UC paid to UCFE and UCX claimants. On a quarterly basis, States report UCFE and UCX paid to the DOL, which is responsible for obtaining reimbursement to the UTF from the appropriate Federal agencies.

Source of Governing Requirements

The Federal-State Unemployment Insurance (UI) program partnership is provided for by Titles III, IX and XII of the Social Security Act of 1935 (SSA) (42 USC 501 *et seq.*) and the Federal Unemployment Tax Act (FUTA) (26 USC 3301 *et seq.*). Program regulations are found in 20 CFR parts 601 through 616.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Administrative grant funds may be used only for the purposes and in the amounts necessary for proper and efficient administration of the UI program (SSA, section 303(a)(8); 42 USC 503(a)(8)).

E. Eligibility

1. Eligibility for Individuals

- a. *General Audit Approach for UI Benefit Payments* - SESAs are required by 20 CFR 602.11(d) to operate a Benefits Accuracy Measurement (BAM) program to assess the accuracy of UI benefit payments, denied claims, and interstate paid claims. Specifically, the SESA's BAM unit draws a weekly sample of payments, reviews the records, and contacts the claimant, employers, and third parties (either in-person, by telephone, or by fax) to verify all the information pertinent to the amount paid for the sampled week. For claims that were overpaid or underpaid, BAM determines the amount of benefits the claimant should have received, the cause of and the party responsible for the payment error, the point in the UI claims process at which the error was detected, and actions taken by the agency and employer prior to the payment that is in error. BAM does not estimate all underpayments, because it samples only payments, not denied UI claims. Federal regional office staff review a subsample of completed cases each year in each State. National office staff further review a small sample of cases and provide comments to the regions on their monitoring. BAM covers UC, UCFE, and UCX (20 CFR 602.11(d)).

Due to the complexity of the UI benefit payment operations, it is unlikely the auditor will be able to support an opinion that UI benefit payments are in compliance with applicable laws and regulations without relying on the systems and internal controls.

- b. *Regular Compensation Program* - Under State UI laws, a worker's benefit rights depend on the amount of the worker's wages in covered employment in a "base period." While most States define the base period as the first 4 of the last 5 completed calendar quarters prior to the filing of the claim, other base periods are used. To qualify for benefits a claimant must have worked a certain number of weeks, or have worked a certain number of weeks or calendar quarters within the base period, or meet some combination of wage and employment requirements. A "waiting period" is a noncompensable period of unemployment in which the worker was otherwise eligible for benefits. Most States require a waiting period of one week of total or partial unemployment before UC is payable.

To be eligible to receive UC, all States provide that a claimant must be able and available for work (i.e., must be in the labor force; unemployment must be caused by lack of suitable work; and the claimant must be legally authorized to work). A claimant must not be unemployed for such acts as leaving voluntarily without good cause, discharge for misconduct connected with work, and refusal of suitable work.

- c. *EB Program* - To qualify for EB, a claimant must have exhausted Regular Compensation (20 CFR section 615.4(a)). To be eligible for a week of EB, a claimant must apply for and be able and available to accept suitable work, if offered. What constitutes suitable work is dependent on a required SESA's evaluation of the claimant's employment prospects. An EB claimant must make a "systematic and sustained effort" to seek work and must provide "tangible evidence" to the SESA that he or she has done so (EUCA section 202(a)(3); 20 CFR section 615.8).
- d. *UCFE and UCX Programs* - For UCFE, the claimant's eligibility and benefit amount will generally be determined in accordance with the UI law of the State of the claimant's last duty station (20 CFR section 609.8). For UCX, a claimant's eligibility is determined in accordance with the UI law of the State in which the claimant files a first claim after separation from active military service (20 CFR section 614.8).

2. **Eligibility of Group of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients** - Not Applicable

G. Matching, Level of Effort, Earmarking

1. **Matching** - *Shareable Compensation Program (EB)*

From its UI tax revenues, the State is required to pay either zero percent (UCFE, UCX), 50 percent (EB) or 100 percent (Regular Compensation) of the UC paid by the SESA to eligible claimants.

The State is required to provide 50 percent of the amounts paid to the majority of eligible EB claimants (those not covered by Federal law or special provisions of State law) (20 CFR sections 615.2 and 615.14(a)). Those EB amounts paid by the SESA, and which are not the responsibility of the State, are reimbursable to the State from the UTF (20 CFR section 615.14). The first week of EB is reimbursable to the State only if, in addition to other requirements, the State requires the first week of an individual's benefit year to be an "unpaid waiting week" (EUCA section 204; 20 CFR section 615.14).

The 50 percent share of EB for which the State is responsible is prorated for those claimants whose base period includes wages from both public and private sector employment.

2. **Level of Effort** - Not Applicable
3. **Earmarking** - Not Applicable

L. Reporting

1. Financial Reporting

Instructions for reporting financial and program activities are contained in ETA Handbook 336, *State Quality Service Plans for Unemployment Insurance Operations* and in the *Unemployment Insurance Reports Handbook 401*. The SESA may file certain reports electronically.

- a. SF-269, *Financial Status Report* - A separate SF-269 is submitted for each of the following: UI Administration, UI National Activities (excluding cooperative agreements), Regular Trade Benefits, NAFTA Benefits, and UA Projects (administration and benefits).
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272-E, *Major Program Statement*.
- e. ETA 2112, *UI Financial Transaction Summary (OMB No. 1205-0154)* - A monthly summary of transactions which account for all funds received in, passed through, or paid out of the State unemployment fund (Page II-1-1 of ETA Handbook No. 401).
- f. ETA 581, *Contribution Operations (OMB No. 1205-0178)* - Quarterly report on volume of SESA work, performance in determining the taxable status of employers, and other information pertinent to the overall effectiveness of the tax program (Page II-2-1).
- g. ETA 191, *Financial Status of UCFE/UCX (OMB No. 1205-0162)* - Quarterly report on UCFE and UCX expenditures and the total amount of benefits paid to claimants of specific Federal agencies (Page II-3-1).
- h. ETA 227, *Overpayment Detection and Collection Activities (OMB No. 1205-0173)* - Quarterly report on results of SESA activities in principal detection areas of benefit payment control (Page IV-3-1).

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. ETA 2208A, *Quarterly UI Contingency Report (OMB No. 1205-0132)* - Quarterly report of staff years worked and paid by program category. Key line items are 1 through 7 of Section A. The auditor is not expected to test Sections B through E.

N. Special Tests and Provisions

1. Employer Experience Rating

Compliance Requirement - Certain benefits accrue to States and employers when the State has a Federally-approved experience-rated UI tax system. All States currently have an approved system. For the purpose of proper administration of the system, the SESA maintains accounts, or subsidiary ledgers, on State UI taxes received or due from individual employers, and the UC benefits charged to the employer.

The employer's "experience" with the unemployment of former employees is the dominant factor in the SESA computation of the employer's annual State UI tax rate. The computation of the employer's annual tax rate is based on State UI law (26 USC section 3303).

Audit Objective - To verify the accuracy of the employer's annual State UI tax rate. To determine if the tax rate was properly applied by the State.

Suggested Audit Procedures

- a. Experience rating systems are generally highly automated systems. These systems could contain errors that are material in the aggregate, but which are not susceptible to detection solely by sampling. If errors are detected, sampling may not be the most effective and efficient means to quantify the extent of such errors. For this reason, the auditor should have a thorough understanding of the operation of these systems, and is strongly encouraged to consider the use of computer-assisted auditing techniques (CAATs) to test these systems.
- b. On a test basis, reconcile the subsidiary employer accounts with the State's UI general ledger control accounts.
- c. Trace a sample of taxes received and benefits paid to postings to the applicable employer accounts. Verify the propriety of any non-charging of benefits paid to an employer account.
- d. Trace a sample of postings to employer accounts to documentation of taxes received and benefits paid.
- e. On a test basis, recompute employer experience-related tax rates.

2. Match with IRS 940 FUTA Tax Form

Compliance Requirement - States are required to annually certify for each taxpayer the total amount of contributions required to be paid under the State law for the calendar year and the amounts and dates of such payments in order for the taxpayer to be allowed the credit against the FUTA tax (26 CFR section 31.3302(a)-3(a)). In order to accomplish this certification, States annually perform a match of employer tax payments with credit claimed for these payments on the employer's IRS 940 FUTA tax form (IRS Doc. No. 6581, "Specifications for a Nationwide System for Computerized Certification of State FUTA Credits," revised annually).

Audit Objective - Determine whether the State properly performed the match to support its certification of State FUTA tax credits.

Suggested Audit Procedures

- a. Ascertain the State's procedures for conducting the annual match.
- b. Obtain and examine documentation supporting the annual match process from the group of employers' State unemployment tax payments used by the State in its match process.
- c. For a sample of employer payments:
 - (1) Verify that the tax payments met the stated criteria for FUTA tax credits allowance (e.g., timely state unemployment tax filings and payments).
 - (2) Compare the audit results to the States' reported annual match results.

IV. OTHER INFORMATION

State unemployment tax revenues and the government, Indian tribe, and non-profit reimbursements in lieu of State taxes (State UI funds) must be deposited to the Unemployment Trust Fund in the U.S. Treasury, only to be used to pay benefits under the Federally-approved State unemployment law. This Compliance Supplement includes several compliance requirements that must be tested with regard to these State UI funds. Consequently, State UI funds as well as Federal funds shall be included in the total expenditures of CFDA 17.225 when determining Type A programs. State UI funds should be included with Federal funds on the Schedule of Expenditures of Federal Awards. A footnote to the Schedule to indicate the individual State and Federal portions of the total expenditures for CFDA 17.225 is encouraged.

DEPARTMENT OF LABOR**CFDA 17.235 SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM****I. PROGRAM OBJECTIVES**

To provide, foster, and promote useful part-time work opportunities (usually 20 hours per week) in community service activities for low income persons who are 55 years of age and older. To the extent feasible, the program assists and promotes the transition of program enrollees into unsubsidized employment. Authorized by the Older Americans Act of 1965 (the Act), as amended (42 USC 3056 et seq; 20 CFR part 641).

II. PROGRAM PROCEDURES

To allot program funds for use in each State, the Department of Labor (DOL) utilizes a statutory formula based on the number of persons aged 55 and over, per capita income, and hold-harmless considerations. Program grants are awarded to eligible applicants, which include States, U.S. Territories, and public and private non-profit entities other than political parties (Section 506 of the Act). The relative amount of funding for each type of eligible applicant has historically occurred at proportions of 22 percent to State agencies and 78 percent to 10 national sponsors. Annual awards, which are currently made to 46 States; the Commonwealth of the Marianas Islands, American Samoa, and Guam; nine non-profit organizations, and the U.S. Forest Service (the national sponsors), are administered by the DOL at the national level. The one-year grant period may be extended up to two months through a grant modification. The program year is July 1 to June 30.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Allowable activities include, but are not limited to: outreach, orientation, assessment, counseling, classroom training, job development, community service assignments, payment of wages and fringe benefits, training, supportive services, and placement in unsubsidized employment.
2. Lobbying and building repairs and acquisition costs, except for (1) labor involved in the minor and necessary remodeling of public facilities for the benefit of the project and/or community and (2) the minor rehabilitation or repair of houses of low income persons by enrollees, are specifically prohibited (20 CFR section 641.403).

E. Eligibility**1. Eligibility for Individuals**

Persons 55 years or older whose family is low-income (i.e., income does not exceed the low-income standards defined in 20 CFR section 641.102) are eligible for enrollment (20 CFR section 641.305(b)). Low-income under 20 CFR section 641.102 means an income of the family which, during the preceding six months on an annualized basis or the actual income during the preceding 12 months, whichever is more beneficial to the applicant, is not more than 125 percent of the poverty levels established and periodically updated by the U.S. Department of Health and Human Services. (The poverty guidelines are issued each year in the *Federal Register* and the Department of Health and Human Services maintains a page on the Internet which provides the poverty guidelines (<http://aspe.os.dhhs.gov/poverty/poverty.htm>.) In addition, an individual who receives, or is a member or a family which receives, regular cash welfare payments shall be deemed to have a low income for purposes of this part. Enrollee eligibility is redetermined on an annual basis (20 CFR section 641.305(e)(1)).

2. Eligibility for Groups of Individuals or Area of Service Delivery - Not Applicable**3. Eligibility for Subrecipients - Not Applicable****G. Matching, Level of Effort, Earmarking****1. Matching**

The grantee must contribute matching, in cash or in-kind, not less than 10 percent of the total cost of the project, except that the Federal government may pay all costs of any project which is:

- a. An emergency or disaster project;
- b. A project located in an economically depressed area as determined by the Secretary of Labor in consultation with the Secretary of Commerce and the Director of the Office of Community Services of the Department of Health and Human Services;
- c. A project which is exempt by law; or
- d. A project serving an Indian reservation that can demonstrate it cannot provide adequate non-Federal resources (20 CFR section 641.407).

2.1 Level of Effort - Maintenance of Effort - Not Applicable

2.2 Level of Effort - *Supplement not Supplant*

Employment of an enrollee shall be only in addition to budgeted employment which would otherwise be funded by the grantee, subgrantee(s) or host agency(ies) without assistance from the Act, and shall not result in employee displacement (including persons in lay-off status) or substitute project jobs for contracted work or other Federal jobs (20 CFR section 641.325).

3. Earmarking

The amount of Federal funds expended for enrollee wages and fringe benefits shall be no less than 75 percent of the grant (20 CFR section 641.405(b)(2)).

The amount of Federal funds expended for the costs of administration during the program year shall be no more than 13.5 percent of the grant (20 CFR section 641.405). A waiver of this requirement to increase administrative expenditures to 15 percent may be granted by the Secretary (20 CFR section 641.405(b)(1)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through PMS and is evidenced by the PMS 272 series of reports.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF LABOR**CFDA 17.245 TRADE ADJUSTMENT ASSISTANCE--WORKERS (TAA)****I. PROGRAM OBJECTIVES**

The purpose of the TAA and NAFTA-TAA programs is to assist individuals who become unemployed or underemployed as a result of increased imports (or, under the NAFTA-TAA program, a shift of production to Mexico or Canada) to return to suitable employment.

II. PROGRAM PROCEDURES

Funds are provided to State Employment Security Agencies (SESAs) to serve as agents of the U.S. Department of Labor for administering the worker adjustment assistance benefit provisions of the Act. Total program funds for training are capped for each fiscal year. Funds for job search and relocation are appropriated separately.

Through their local offices, SESAs arrange for training and provide weekly trade readjustment allowances (TRA) for program participants. In addition, eligible individuals may receive (1) a job search allowance, (2) a relocation allowance, and (3) a transportation and/or subsistence allowance for the purpose of attending approved training outside the normal commuting distance of their regular place of residence (20 CFR part 617).

Source of Governing Requirements

This program is authorized by the Trade Act of 1974, as amended (Pub. L. No. 93-618 and Pub. L. No. 103-182 (19 USC 2271 *et seq.*; 20 CFR part 617; and 29 CFR part 90, subpart B)).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Allowable activities include job search, relocation assistance, training (including payments for transportation and subsistence where required for training), and payment of weekly TRA to eligible participants. TAA funds cannot be used to pay for testing, counseling, and job placement services; however, TAA participants may be receiving these services through other programs (20 CFR part 617).

E. Eligibility

1. Eligibility for Individuals

- a. *Department of Labor Certification* - In order to be eligible for training and other re-employment services, an individual must: (1) be an adversely affected worker covered under a Department of Labor certification and (2) have a qualifying separation which occurred (a) on or after the impact date specified in the Certification as the beginning of the import caused unemployment or underemployment and (b) before the expiration of the two-year period beginning on the date on which the Secretary of Labor issued the Certification for his or her group or, if earlier, before the termination date, if any, specified in the Certification. Regulations governing "Certification of Eligibility to Apply for Adjustment Assistance" are found at 29 CFR part 90.
- b. *Qualifying Wages, Duration of Employment, and Training* - To be eligible for weekly TRA payments, the worker must: (1) have been employed at wages of \$30 or more per week in adversely-affected employment with a single firm or subdivision of a firm for at least 26 of the previous 52 weeks ending with the week of the individual's qualifying separation (up to seven weeks of employer-authorized leave, up to seven weeks as a full-time representative of a labor organization, or up to 26 weeks of disability compensation may be counted as qualifying weeks of employment); (2) have exhausted all Unemployment Compensation to which he or she is entitled; and (3) be enrolled in or have completed an approved job training program, unless a waiver from the training requirement has been issued after a determination is made that training is not feasible or appropriate (waivers from training are not authorized under the NAFTA-TAA program) (20 CFR section 617.11).
- c. *NAFTA-TAA* - To be eligible for weekly TRA payments under the NAFTA-TAA program, workers must meet all the requirements for the regular TAA program. In addition, workers must be enrolled in their approved training within six weeks of the issuance of the Certification or within 16 weeks of their most recent qualifying separation, whichever is later (Pub. L. No. 103-182, section 250(d)(3)(B)).
- d. *Maximum Combined Number of Weeks for Receipt of UC, EB and TRA* - TRA becomes payable to eligible claimants only after they have exhausted their entitlement to regular State unemployment compensation benefits (UC), including extended benefits (EB), if applicable. The maximum combined number of weeks for receipt of UC, EB, and TRA cannot exceed 52 weeks, except that up to 26 additional weeks of TRA may be paid to program participants enrolled in approved training (20 CFR sections 617.14 and 617.15).

- e. *Maximum Number of Weeks for Receipt of Approved Training* - The maximum duration for any approvable training program is 104 weeks, and no individual shall be entitled to more than one training program under a single Certification (20 CFR section 617.22(f)(2)).

2. Eligibility for Groups of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Data equivalent to that which is required on the SF-272 is submitted electronically by the recipient. A PMS 272-E, *Federal Cash Transaction Report - Major Program Statement*, is issued by the Department of Health and Human Services, Division of Payment Management as confirmation of what was electronically submitted to the Federal government for the SF-272.
- e. ETA 9023, *Trade Adjustment Assistance, Financial Status Report/Request for Funds (OMB No. 1205-0275)* - SESAs are required to furnish this quarterly report to ETA (20 CFR section 617.61; 29 CFR section 97.41).

2. Performance Reporting

- a. *Trade Act Participant Report (TAPR)* (OMB Control No. 1205-0392) - SESAs are required to submit quarterly reports on participant characteristics, services and benefits received, and outcomes achieved.

Key Line Items - The following line items contain critical information:

1. Item I.2 - Individual Identifier
2. Item III.2 - Employed in first full quarter after exit
3. Item III.5 - Employed in third full quarter after exit

Total Earnings from Wage Records:

4. Item III.6 - Three quarters prior to most recent qualifying separation
5. Item III.7 - Two quarters prior to most recent qualifying separation
6. Item III.8 - First quarter following exit
7. Item III.9 - Second quarter following exit
8. Item III.10 - Third quarter following exit

3. Special Reporting

- a. ETA 563, *Quarterly Determinations, Allowance Activities and Reemployment Services Under the Trade Act (OMB No. 1205-0016)* - This report is due quarterly from each SESA. Two reports are submitted, one for the regular TAA program and one for the NAFTA-TAA program (20 CFR section 617.57, 29 CFR section 97.40).

DEPARTMENT OF LABOR**CFDA 17.247 MIGRANT AND SEASONAL FARMWORKERS (National Farmworker Jobs Program)****I. PROGRAM OBJECTIVES**

The Workforce Investment Act of 1998 (WIA) reforms Federal job training programs and creates a new, comprehensive workforce investment system. The reformed system is intended to be customer-focused, to help Americans access the tools they need to manage their careers through information and high quality services, and to help U.S. companies find skilled workers. The cornerstone of the new workforce investment system is One-Stop service delivery, which unifies numerous training, education and employment programs into a single, customer-friendly system in each community so that the customer has access to a seamless system of workforce investment services.

Programs under Subtitle D of Title I of WIA (National programs) serve population segments which typically experience more severe workforce problems. Accordingly, the National Farmworker Jobs Program seeks to assist eligible migrant and seasonal farmworkers and their families to achieve economic self-sufficiency.

II. PROGRAM PROCEDURES

The National Farmworker Jobs Program (NFJP) provides funding to assist migrant and seasonal farmworkers and their families achieve economic self-sufficiency by providing supportive services to them while they work in agriculture or by assisting them to acquire new job skills in occupations offering better pay and a more stable employment outlook. The DOL awards grants competitively to eligible applicants which submit two-year strategic plans for operating the National Farmworker Jobs Program in state, substate and multi-state service areas (20 CFR sections 669.200 through 669.210). Awards are for a two year period, with provision for an additional two-year period without competition when performance is satisfactory .

The NFJP is a required One-Stop partner. Grantees must therefore negotiate Memorandums of Understanding (MOUs) with the local workforce investment boards in the areas of the state where the program operates (20 CFR section 669.220(a)).

Source of Governing Requirements

The WIA program is authorized by: Title I of the Workforce Investment Act of 1998 (Pub. L. No. 105-220, 112 Stat. 936-1059; 29 USC 2811 et seq.). The regulations are at 20 CFR parts 660-671.

Availability of Other Information

Additional information on programs authorized under the WIA can be found on the Internet at www.usworkforce.org and www.doleta.gov. The Questions and Answers and Policy-Related *Information* sections are particularly useful sources of information on compliance issues.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable, and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Activities Allowed

Activities allowed are in accordance with a service delivery strategy described in the grantee's approved two-year grant plan (20 CFR section 669.300). The services available from the NFJP for assisting migrant and seasonal farmworkers are organized as Core Services, Intensive Services, Training Services, and Related Assistance Services (20 CFR section 669.310).

- a. *Core Services* include skills assessment, job search, WIA program eligibility determination, and access to the other core services of the Local One-Stop Center (20 CFR sections 669.340 and 350).
- b. *Intensive Services* include objective assessment, employment development planning, basic education, drop-out prevention, allowance payments, work experience, and Literacy and English-as-a-Second language (20 CFR section 669.370).
- c. *Training Services* include occupational skills and job training (which includes On-The-Job Training (OJT)), and classroom training (20 CFR section 669.410).
- d. *Related Assistance Services* are short-term forms of direct assistance that support farmworkers and their families to retain or stabilize their agricultural employment or participation in an Intensive or Training Services activity (20 CFR section 669.430).

2. Activities Unallowed

WIA title I funds may not be used for the following activities:

- a. Construction or purchase of facilities or buildings (20 CFR 667.260), with the following exceptions:
 - (1) Providing physical and programmatic accessibility and reasonable accommodation, as required under section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended (20 CFR 667.260(a)).

- (2) Repairs, renovations, alterations and capital improvements of SESA real property and JTPA-owned property which is transferred to WIA title I programs (20 CFR 667.260(b)).
 - (3) Disaster relief employment on projects for demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within a disaster area (WIA sec.173(d); 29 USC 2918(d); 20 CFR 667.260(d)).
- b. Employment generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities not directly related to training for eligible individuals, with the exception of employer outreach and job development activities, which are considered directly related to training for eligible individuals (WIA section 181(e); 29 USC 2931(e); 20 CFR 667.262):
 - c. The employment or training of participants in sectarian activities. Participants shall not be employed in the construction, operation, or maintenance of a facility that is or will be used for sectarian instruction or as a place for religious worship. However, WIA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIA participants. (WIA section 188(a)(3); 29 USC 2938(a)(3); 20 CFR 667.266).
 - d. Encouraging or inducing the relocation of a business or part of a business from any location in the United States if the relocation results in any employee losing his or her job at the original location (20 CFR 667.268).
 - e. Providing customized training, skill training, or on-the-job training or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation resulted in any employee losing his or her job at the original location (20 CFR 667.268(a)).
 - f. Paying the wages of incumbent employees during their participation in economic development activities provided through a Statewide workforce investment system (WIA sec.181(b)(1); 29 USC 2931(b)(1); 20 CFR section 667.264(a)(1)).
 - g. Public service employment, except to provide disaster relief employment, as specifically authorized in section 173(d) of WIA (WIA sec. 195(10); 29 USC 2945(10); 20 CFR 667.264(a)(2)).

E. Eligibility

1. Eligibility for Individuals

- a. *Selective Service* - No participant may be in violation of section 3 of the Military Selective Service Act (50 USC App. 453) by not presenting and submitting to registration under that Act (29 USC 2939(h)).
- b. *Citizenship* - WIA participants must be citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, assails, and parolees, and other immigrants authorized by the Attorney General to work in the United States (29 USC 2938(a)(5)).
- c. To be eligible for participation in the NFJP, individuals must (20 CFR section 669.320):
 - (1) Have been a migrant or seasonal farmworker whose family was disadvantaged (see definition of "disadvantaged" as defined in 20 CFR section 669.110) during any consecutive 12-month period within the 24-month period preceding application for enrollment.
 - (a) A "seasonal farmworker" is a person who, for 12 consecutive months out of the 24 months prior to application for the program, and has been primarily employed in agricultural labor that is characterized by chronic unemployment or underemployment (29 USC 2912(h)(4)).
 - (b) A "migrant farmworker" is a seasonal farmworker as described in (a) above whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day (29 USC 2912(h)(3)).
 - (2) Be a dependent of the seasonal or migrant farmworker in (1)(a) or (1)(b) above..

2. Eligibility for Groups of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients - Not Applicable

F. Equipment and Real Property Management

Recipients and subrecipients may permit employers to use WIA-funded, local area services, facilities, or equipment on a fee-for-service basis, to provide employment and

training activities to incumbent workers if this does not interfere with utilization by eligible participants and the income generated from such fees is treated as program income (29 USC 2945(13); 20 CFR section 667.200(a)(8)).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**

Administrative Cost Limits - The percentage of grant funds which may be expended on administrative costs is specified in the grant or contract award document (20 CFR section 667.210(b)). The term administrative costs is defined at 20 CFR section 667.220.

H. Period of Availability of Federal Funds

The period of availability for expenditures is set out in the terms and conditions of the award document (20 CFR section 667.107(e)).

I. Procurement and Suspension and Debarment

All procurement contracts and other transactions between Local Boards and units of State or local governments must be conducted only on a cost reimbursement basis. No provision for profit is allowed (20 CFR 667.200(a)(3)).

J. Program Income

1. The addition method is required for use on all program income earned under WIA grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the WIA program. However, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under the grants when these costs have not been charged to the WIA program (20 CFR section 667.200(a)(5)).
2. WIA specifically includes as program income: (1) receipts from goods and services, including conferences; (2) funds provided to a service provider in excess of the costs associated with the services provided; and, (3) interest income earned on funds received under WIA. Any excess of revenue over costs incurred for services provided by a governmental or non-profit entity must be included in program income earned (29 USC 2945(7)(B) and 20 CFR section 667.200(a)(6)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272-E, *Major Program Statement*.
- e. *ETA-9092, NFJP Financial Status Report* (OMB No. 1205-0428) - Grantees report cumulative net outlays/accrued expenditures, refunds/rebates, and program income on an accrual basis quarterly and annually for each fiscal year of appropriation, as well as grantee obligations and Total Federal Funds Authorized.

2. Performance Reporting

ETA 9095 - NFJP Program Status Summary (OMB No. 1205-0425) - Grantees report cumulative data on participants served, number of terminees, performance outcomes and type of services received on a quarterly and annual basis. This data is used to determine the levels of program service and accomplishments for the program year.

Key Line Items - The following line items contain critical information:

- a. Line II.A - Entered Unsubsidized Employment
- b. Line II B - Completed Training Services

M. Subrecipient Monitoring

Each recipient and subrecipient must conduct regular oversight and monitoring of its WIA activities and those of its subrecipients and contractors in order to determine whether or not there is compliance with provisions of the Act and applicable laws and regulations and provide technical assistance as necessary and appropriate (20 CFR section 667.400(c)).

IV. OTHER INFORMATION

CFDA 17.247 as described in the March 2001 Compliance Supplement is under JTPA requirements which differ significantly from the CFDA 17.247 program described in this Supplement under WIA requirements. Therefore, as part of the Type A program risk assessment under OMB Circular A-133, this program shall only be considered as having been audited in the prior two years if it was audited under the March 2001 Compliance Supplement using the requirements listed in that Supplement under CFDA 17.255 applicable to NFJP.

DEPARTMENT OF LABOR**CFDA 17.251 NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS
(WIA)****I. PROGRAM OBJECTIVES**

The Workforce Investment Act of 1998 (WIA) reforms Federal job training programs and creates a new, comprehensive workforce investment system. The reformed system is intended to be customer-focused, to help Americans access the tools they need to manage their careers through information and high quality services, and to help U.S. companies find skilled workers. The cornerstone of the new workforce investment system is One-Stop service delivery, which unifies numerous training, education and employment programs into a single, customer-friendly system in each community so that the customer has access to a seamless system of workforce investment services.

Programs under Subtitle D of Title I of WIA (National programs) serve population segments which typically experience more severe workforce problems. Accordingly, Indian and Native American Employment and Training grants also seek to promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.

II. PROGRAM PROCEDURES

The Department of Labor awards Indian and Native American Employment and Training Grants to local areas to Federally-recognized Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations, and Native Hawaiian organizations (20 CFR Subpart B, sections 668.200 through 668.294). Funds are made available for comprehensive workforce investment activities for Indians, Alaska Natives, and Native Hawaiians (29 USC 2911(d)(2)(A)(i)). Supplemental Youth Services funding is made available to entities serving Native American youth "on or near Indian reservations and in Oklahoma, Alaska, or Hawaii" (29 USC 2911(d)(2)(A)(ii)).

Grantees are required to submit a Comprehensive Services Plan for DOL approval. The Plan must identify program emphasis areas, designate a specific target population to be served by the grant, select appropriate performance measures and standards, establish specific plans for serving youth (if they receive Supplemental Youth Services funding), develop a budget and identify the level of administrative costs needed for the two-year plan, and identify appropriate program linkages with other agencies (20 CFR section 668.720). Services provided under the Plan may include any of the core services (20 CFR section 668.340(b)), intensive services (20 CFR section 668.340(c), training services (20 CFR section 668.340(d)), and youth services (20 CFR section 668.340(e)) which other Title I grantees may provide, as well as tribal job development, outreach, and related services (20 CFR section 668.340(f)). Grantees are required to negotiate Memorandums of Understanding (MOUs) with the local workforce investment board(s) which operate in whole or in part within the grantee's service area (29 USC 2841(c)).

Source of Governing Requirements

The WIA program is authorized by: Title I of the Workforce Investment Act of 1998 (Pub. L. No. 105-220, 112 Stat. 936-1059; 29 USC 2811 et seq.). The regulations are at 20 CFR parts 660-671.

Availability of Other Information

Additional information on programs authorized under the Workforce Investment Act can be found on the Internet at www.usworkforce.org and www.doleta.gov. The *Questions and Answers* and *Policy-Related Information* sections are particularly useful sources of information on compliance issues.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable, and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Activities Allowed

- a. Indian and Native American Employment and Training Grantees can provide a wide array of activities relating to employment, training, education, supportive and community services, and youth development as outlined in 20 CFR section 668.340.
- b. *Core Services* include skills assessment, job search, WIA program eligibility determination, and access to the other core services of the Local One-Stop Center (20 CFR section 668.340(b)).
- c. *Intensive Services* include objective assessment, employment development planning, basic education, drop-out prevention, allowance payments, work experience, and Literacy and English-as-a-Second language (20 CFR section 668.340(c)).
- d. *Training Services* include, but are not limited to, occupational skills and job training, including On-The-Job Training (OJT), and classroom training (20 CFR section 668.340(d)).
- e. *Youth Activities* include, but are not limited to, improving educational and skill competencies, adult mentoring, training opportunities, supportive services, incentive programs, opportunities for leadership development, preparation for post-secondary education, tutoring, alternative secondary school services, summer employment opportunities, work-experiences,

occupational skill training, follow-up services, and comprehensive guidance and counseling (20 CFR 668.340(e)).

- f. *Job Development Activities* include, but are not limited to, support of the Tribal Employment Rights Office (TERO) program, job development contacts with employers, and linkages with education and training programs and other service providers (20 CFR 668.340(f)).

2. **Activities Unallowed**

WIA title I funds may not be used for the following activities:

- a. Construction or purchase of facilities or buildings (20 CFR 667.260), with the following exceptions:
- (1) Providing physical and programmatic accessibility and reasonable accommodation, as required under section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended (20 CFR 667.260(a)).
 - (2) Repairs, renovations, alterations and capital improvements of SESA real property and JTPA-owned property which is transferred to WIA title I programs (20 CFR 667.260(b)).
 - (3) Disaster relief employment on projects for demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within a disaster area (WIA sec.173(d); 29 USC 2918(d); 20 CFR 667.260(d)).
- b. Employment generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities not directly related to training for eligible individuals, with the exception of employer outreach and job development activities, which are considered directly related to training for eligible individuals (WIA section 181(e); 29 USC 2931(e); 20 CFR 667.262):
- c. The employment or training of participants in sectarian activities. Participants shall not be employed in the construction, operation, or maintenance of a facility that is or will be used for sectarian instruction or as a place for religious worship. However, WIA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIA participants. (WIA section 188(a)(3); 29 USC 2938(a)(3); 20 CFR 667.266).

- d. Encouraging or inducing the relocation of a business or part of a business from any location in the United States if the relocation results in any employee losing his or her job at the original location (20 CFR 667.268).
- e. Providing customized training, skill training, or on-the-job training or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation resulted in any employee losing his or her job at the original location (20 CFR 667.268(a)).
- f. Paying the wages of incumbent employees during their participation in economic development activities provided through a Statewide workforce investment system (WIA sec.181(b)(1); 29 USC 2931(b)(1); 20 CFR section 667.264(a)(1)).
- g. Public service employment, except to provide disaster relief employment, as specifically authorized in section 173(d) of WIA (WIA sec. 195(10); 29 USC 2945(10); 20 CFR 667.264(a)(2)).

E. Eligibility

1. Eligibility for Individuals

- a. *Selective Service* - No participant may be in violation of section 3 of the Military Selective Service Act (50 USC App. 453) by not presenting and submitting to registration under that Act (29 USC 2939(h)).
- b. *Citizenship* - WIA participants must be citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, assails, and parolees, and other immigrants authorized by the Attorney General to work in the United States (29 USC 2938(a)(5)).
- c. A person is eligible to receive services under the INA program if they meet the definition of an Indian, as determined by a policy of the Native American grantee, and are also one of the following (20 CFR section 668.300).
 - (1) Unemployed.
 - (2) Underemployed as defined in 20 CFR section 668.150.
 - (3) Low-income individual as defined in 29 USC 2801(25). (See G.3.b.(2) for requirement that at least 95 percent of eligible participants in supplemental youth services be disadvantaged low-income youth.)

- (4) The recipient of a bona fide lay-off notice which has taken effect in the last six months or will take effect in the following six month period, who is unlikely to return to a previous industry or occupation, and who is in need of retraining for either employment with another employer or for job retention with the current employer.
- (5) An individual who is employed, but is determined by the grantee to be in need of employment and training services to obtain or retain employment that allows for self-sufficiency.

2. **Eligibility for Groups of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients** - Not Applicable

F. Equipment and Real Property Management

Recipients and subrecipients may permit employers to use WIA-funded, local area services, facilities, or equipment on a fee-for-service basis, to provide employment and training activities to incumbent workers if this does not interfere with utilization by eligible participants and the income generated from such fees is treated as program income (29 USC 2945(13); 20 CFR section 667.200(a)(8)).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**
 - a. *Administrative Cost Limits* - The percentage of grant funds which may be expended on administrative costs is specified in the grant or contract award document (20 CFR section 667.210(b)). The term administrative costs is defined at 20 CFR section 667.220.
 - b. *Supplemental Youth Services* - A minimum of 95 percent of eligible participants in supplemental youth services activities must meet the low-income criteria as defined in 29 USC 2801(25) to participate in the program (20 CFR sections 668.300 and 668.430(b)).

H. Period of Availability of Federal Funds

The period of availability for expenditures is set out in the terms and conditions of the award document (20 CFR section 667.107(e)).

J. Program Income

1. The addition method is required for use on all program income earned under WIA grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the WIA program. However, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under the grants when these costs have not been charged to the WIA program (20 CFR section 667.200(a)(5)).
2. WIA specifically includes as program income: (1) receipts from goods and services, including conferences; (2) funds provided to a service provider in excess of the costs associated with the services provided; and, (3) interest income earned on funds received under WIA. Any excess of revenue over costs incurred for services provided by a governmental or non-profit entity must be included in program income earned (29 USC 2945(7)(B) and 20 CFR section 667.200(a)(6)).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272-E, *Major Program Statement*.
- e. ETA-9080, *Indian and Native American Programs-Workforce Investment Act-Grantee Activities* (OMB No.1205-0423). This electronic reporting format is based on the SF-269 Financial Status Report and used to report accrued income and program and administrative expenditures funded by grants under WIA section 166. Indian tribes participating in the "477" program authorized by the Indian Employment, Training, and Related Services Demonstration Act of 1992 (Pub. L.102-477) are required to submit a single financial report covering all Federal formula programs covered by their 477 plan to the Bureau of Indian Affairs.

2. Performance Reporting

- a. ETA-9084, *Indian and Native American Comprehensive Services Report* (OMB No. 1205-0422) - Reports cumulative data on participation, termination, performance measures outcomes, and the socio-economic characteristics of all terminees on a semi-annual and annual basis. The information is used to determine the levels of program service and program accomplishments for the Program Year. Grantees receiving these funds are required to submit a semi-annual and annual report except Federally-recognized tribes participating in the demonstration under Public Law 102-477 (as is the case for ETA-9080 and ETA-9085).

Key Line Items - The following line items contain critical information:

1. Line 2 - Entered Employment with Enhancement
2. Line 3 - Entered Employment without an Enhancement
3. Line 23 - Classroom Training: Basic Education
4. Line 24 - Classroom Training: Job Skills
5. Line 25 - On-the-Job Training
6. Line 26 - Work Experience

- b. ETA-9085, *Indian and Native American Supplemental Youth Services Program Report* (OMB No. 1205-0422) - Reports cumulative data on participation, termination, performance outcomes, and socio-economic characteristics of participants. Grantees receiving these funds are required to submit a semi-annual and annual report except Federally-recognized tribes participating in the demonstration under Public Law 102-477 (as is the case for ETA-9080 and ETA-9084).

Key Line Items - The following line items contain critical information:

1. Line 1 - Total Participants
2. Line 2 - Total Terminations
3. Line 3 - Total Current Participants
4. Line 18 - Entered Unsubsidized Employment
5. Line 23 - Attained High School Diploma
6. Line 24 - Attained GED

7. Line 28 - Total Participants who Attained 2 or More Goals

M. Subrecipient Monitoring

1. Each recipient and subrecipient must conduct regular oversight and monitoring of its WIA activities and those of its subrecipients and contractors in order to determine whether or not there is compliance with provisions of the Act and applicable laws and regulations and provide technical assistance as necessary and appropriate (20 CFR section 667.400(c)).
2. Commercial organizations which are subrecipients under WIA title I and which expend more than the minimum level specified in OMB Circular A-133 (\$300,000) must have either an organization-wide audit conducted in accordance with OMB Circular A-133 or a program specific financial and compliance audit (20 CFR section 667.200(b)(2)(ii)).

IV. OTHER INFORMATION

CFDA 17.251 as described in the March 2001 Compliance Supplement is under JTPA requirements which differ significantly from the CFDA 17.251 in this Supplement under WIA requirements. Therefore, as part of the Type A program risk assessment under OMB Circular A-133, this program shall only be considered as having been audited in the prior two years if it was audited under the March 2001 Compliance Supplement using the requirements listed in that Supplement under CFDA 17.255 applicable to Indian and Native American Employment and Training Grants.

DEPARTMENT OF LABOR**CFDA 17.253 WELFARE-TO-WORK GRANTS TO STATES AND LOCALITIES****I. PROGRAM OBJECTIVES**

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 established the Temporary Assistance for Needy Families (TANF) program. This new system of grants to States was created, changing the nature and provision of Federal welfare benefits. This legislation dramatically changed the nation's welfare system into one that requires work in exchange for time-limited assistance and provides support for families moving from welfare to work. In brief, the legislation provides a limit on the amount of time an individual can receive welfare benefits and, with limited exceptions, welfare recipients are expected to engage in work activities to move from welfare assistance to permanent employment.

The Balanced Budget Act of 1997 provides additional resources to achieve this goal by authorizing the Department of Labor (DOL) to provide Welfare-to-Work (WtW) grants to States and local communities for transitional employment assistance to move hard-to-employ TANF recipients with significant employment barriers and certain non-custodial parents into unsubsidized jobs offering long-term employment opportunities. These grants are intended to provide welfare recipients with job placement services, transition employment, and job retention and support services to achieve the ultimate goal of long-term unsubsidized employment and economic self-sufficiency.

II. PROGRAM PROCEDURES

There are two kinds of WtW grants: (1) Formula Grants to States and (2) Competitive Grants to local communities, non-profit, and private-for-profit organizations. Funds are also set aside for program evaluations and Indian tribes.

The Workforce Investment Act (WIA) of 1998 (29 USC 2801 *et seq.*) mandates the formation of local workforce investment boards to administer an array of programs within a specific local workforce investment area (LWIA), and to oversee the One-Stop service delivery system designed to provide quality career information and services to customers. The local WtW formula grant program operator is a mandatory partner in the One-Stop delivery system (20 CFR sections 645.430(a) and 662.200(b)(5)). Title I of WIA and its final regulations require a Memorandum of Understanding (MOU) between each partner and the local board which includes information about services each partner will provide, including coordination of referrals and use of resources (29 USC 2841(c); 20 CFR sections 662.220 and 300).

Formula Grants to States

DOL allots 75 percent of the grant funds available for formula and competitive grants as formula grants to States based on a statutory formula that equally considers States' share of the national number of poor individuals and adult recipients of assistance under TANF. States are required to pass through 85 percent of their allotments to LWIAs. A State is allowed to retain up to 15 percent of the money for WtW activities including serving long-term recipients. States must

provide one dollar of non-Federal funding match for every two dollars of Federal funding provided under the formula. There are no matching requirements for competitive grants.

Substate Allocations

At least half of the funds distributed by formula to local areas must be based on an LWIA's proportion of the State population in high poverty areas. Not more than half may be distributed based on two additional factors: (1) the number of adults receiving TANF assistance for 30 months or more and (2) the number of unemployed in the LWIA.

State Plan and Administration

An approved WtW State plan is required in order for States to receive formula funding. This approved plan becomes an addendum to the State TANF plan. Governors are responsible for administering formula funds and for assuring that they are coordinated with funds spent under the TANF block grant.

Local Administration of Formula-Allocated Funds

WIA local workforce investment boards or, in some cases, former JTPA Private Industry Council's (PICs), administer the WtW program at the local level in coordination with chief elected officials (42 USC 603(5)(A)(vii)(I), 20 CFR section 645.425(b)). However, the Secretary of Labor may approve a Governor's request to use an alternative administering agency, after determining that the alternative would improve the effectiveness or efficiency of program administration (20 CFR section 645.400).

Competitive Grants to Local Communities

The 25 percent of funds not allocated by formula is available for competitive grants awarded directly by DOL to local governments, PICs, and private entities (such as community development corporations and community-based organizations, community action agencies, and other private organizations) who apply in conjunction with a local workforce board or local government.

Source of Governing Requirements

The program is authorized by Pub. L. No. 105-33, Balanced Budget Act of 1997 (amending 42 USC 603, 604, 608, 609, 611, and 613); Pub. L. No. 105-200, Child Support Performance and Incentive Act of 1998 (amending 42 USC 603); Pub. L. No. 105-78, Labor, Health and Human Services Appropriations Act; and Pub. L. No. 105-306, Noncitizen Benefit Clarification and other Technical Amendments Act of 1998 (amending 42 USC 603), and the Welfare-to-Work and Child Support Amendments of 1999 (Pub. L. 106-113 Title VIII) (amending various sections of Title IV of the Social Security Act, including the Welfare-to-Work provisions of sections 403, 404, 409, and 411 (42 USC 603, 604, 609, and 611)). The Amendments of 1999 became effective for WtW competitive grantees on January 1, 2000 and for WtW formula grantees on July 1, 2000. Implementing regulations are 20 CFR part 645.

Availability of Other Program Information

The DOL WtW Internet home page at <http://wtw.doleta.gov/> provides general information on this program. Welfare to Work Questions and Answers are available at wtw.doleta.gov/qsanda.asp. Under Allowable Activities, (AA1) specific information is provided on the WtW contracts and vouchers and the retention of job placement payment provisions.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Activities Allowed* - Entities operating WtW projects may use WtW funds for the following:
 - a. Job readiness activities are subject to the requirements of 20 CFR 645.221 (20 CFR section 645.220(a)).
 - b. Vocational educational training or job training. A participant is limited to six calendar months of such training if the individual is not also employed or participating in an employment activity, as described in 20 CFR section 645.220(c)(c) (20 CFR section 645.220(b)).
 - c. Employment activities which consist of any of the following (20 CFR section 645.220(c)):
 - (1) Community service programs;
 - (2) Work experience programs;
 - (3) Job creation through public or private sector employment wage subsidies; and
 - (4) On-the-job training (OJT).
 - d. Job placement services are subject to the requirements of 20 CFR section 645.221 (42 USC 603(a)(5)(C)(i)(IV)) and the payment requirements of 20 CFR section 645.230(a)(3).
 - e. Post-employment services which are provided after an individual is placed in one of the employment activities listed in 20 CFR section 645.220(b) above, or in any other subsidized or unsubsidized job and subject to the requirements of 20 CFR section 645.221 (42 USC 603 (a)(5)(C)(i)(IV)). Post-employment services include, but are not limited to, such services as (20 CFR section 645.220(e)):

- (1) Basic educational skills training;
 - (2) Occupational skills training;
 - (3) English as a second language training; and
 - (4) Mentoring.
 - f. Job retention services and support services which are provided after an individual is placed in a job readiness activity (20 CFR section 645.220(a)), in vocational education and training (20 CFR section 645.220(b)), one of the employment activities (20 CFR section 645.220(c)), or in any other subsidized or unsubsidized job (20 CFR section 645.220(f)). WtW participants that are enrolled in WIA activities, such as occupational skills training, may also receive job retention and support services funded with WtW monies during their participation in WIA activities, but only if those services are not otherwise available. Job retention and support services include (20 CFR section 645.220(f)):
 - (1) Transportation assistance;
 - (2) Substance abuse treatment (except that WtW funds may not be used to provide medical treatment);
 - (3) Child care assistance;
 - (4) Emergency or short term housing assistance;
 - (5) Other supportive services.
 - g. Individual Development Accounts (IDAs) which are established in accordance with the Social Security Act (SSA). An IDA is an account established with a financial institution by or for an individual to allow the individual to accumulate funds for specific purposes enumerated in the Act, i.e., post-secondary educational expenses, first home purchase, and business capitalization (42 USC 604(h) and (20 CFR section 645.220(g)).
 - h. Outreach, recruitment, intake, assessment, eligibility determination, development of an individualized service strategy, and case management may be incorporated in the design of any of the allowable activities listed in "a" through "g" above (42 USC 603 (a)(5)(C) and (20 CFR section 645.220).
2. *Activities Unallowed* - Construction or purchase of facilities or buildings is prohibited (20 CFR section 645.230(e)).

B. Allowable Costs/Cost Principles

Delegation of Prior Approval Authority - For items of cost requiring prior approval, the authority to grant or deny approval is delegated to the Governor (20 CFR section 645.230(c)).

E. Eligibility

1. Eligibility for Individuals

- a. *General Eligibility and Non-custodial Parent Eligibility - Primary eligibility (70 percent provision).* An individual may be served under this provision if the individual satisfies (1) or (2) below:

- (1) The individual is currently receiving TANF assistance under a State TANF program for at least 30 months (although the months do not have to be consecutive); OR the individual will become ineligible for assistance within 12 months due to either Federal or State-imposed time limits on the receipt of TANF assistance (20 CFR section 645.212(a)).

The WtW definition of TANF assistance referenced here means any TANF funded benefits or services for the financially needy according to the appropriate income and resource criteria specified in the State TANF plan (20 CFR section 645.212(d)).

- (2) The individual is no longer receiving TANF assistance because the individual has reached either the Federal five-year limit or a State-imposed time limit on receipt of TANF assistance (20 CFR section 645.212(b)); or the individual is a non-custodial parent of a minor child if the non-custodial parent is:
- (a) Unemployed, as defined at 20 CFR section 645.120,
- (b) Underemployed, as defined by the State in consultation with local boards and WtW competitive grantees, or
- (c) Having difficulty paying child support obligations, as defined by the State in consultation with local boards and WtW competitive grantees and the State Child Support Enforcement (IV-D) Agency, AND at least one of the following applies:
- (i) The minor child, or the custodial parent of the minor child, meets the long-term recipient of TANF requirements of paragraph (1) of this section;
- (ii) The minor child is receiving or is eligible for TANF benefits;
- (iii) The minor child received TANF benefits during the preceding year; or

- (iv) The minor child is receiving or eligible for assistance under the Food Stamp program, the Supplemental Security Income program, Medicaid, or the Children's Health Insurance Program, and
 - (d) The non-custodial parent is in compliance with the terms of a written or oral personal responsibility contract meeting the requirements of 20 CFR section 645.215 (20 CFR section 645.212(c)).
- b. *Other Eligibles* - An individual may be served under the 30 percent provision if the individual satisfies (1), (2), or (3) below:
 - (1) The individual is currently on TANF assistance and either:
 - (a) Has characteristics associated with, or predictive of, long-term welfare dependence, such as having dropped out of school, teenage pregnancy, or having a poor work history. States in consultation with the operating entity, may designate additional characteristics associated with, or predictive of, long-term welfare dependence; or
 - (b) Has significant barriers to self-sufficiency, under criteria established by the local board or alternate administering agency (20 CFR section 645.213(a)).

The WtW definition of TANF assistance referenced here means any TANF funded benefits or services for the financially needy according to the appropriate income and resource criteria specified in the State TANF plan (20 CFR section 645.212(d)).

- (2) The individual was in foster care under the responsibility of the State before the individual attained 18 years of age and is at least 18 but not 25 years of age or older at the time of application of WtW. Eligible individuals include those who were recipients of foster care maintenance payments as defined in section 475(4) under Part E of the SSA (20 CFR section 645.213(b)), or
- (3) The individual is a custodial parent with income below 100 percent of the poverty line, determined in accordance with the most recent HHS Poverty Guidelines established under section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), including any revisions required by such section, applicable to a family of the size involved (20 CFR section 645.213(c)).
 - (a) Income is defined as total family income for the last six months, exclusive of unemployment compensation, child

support payments, and old-age and survivors benefits received under section 202 of the SSA (42 USC 402).

- (b) A custodial parent with a disability whose own income meets the requirements of a program described in this paragraph (3) even if the individual is a member of a family whose income does not meet such requirements (20 CFR section 645.213(c)).

2. Eligibility for Groups of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The following matching requirements only apply to formula grants:

- a. A State is entitled to receive two dollars of Federal funds for every one dollar of State match expenditures, up to the amount available for allotment to the State based on the state's percentage for the WtW formula grant for the fiscal year. The State is not required to provide a level of match necessary to support the total amount available to it based on the state's percentage for WtW formula grant. However, if the proposed match is less than the amount required to support the full level of Federal funds, the grant amount will be reduced accordingly (20 CFR section 645.300(a)).
- b. No more than seventy-five percent of the total match expenditures may be in the form of third party in-kind contributions (20 CFR section 645.300(b)(3)).
- c. The matching share may not be met by the employer's share of participant wage payments (e.g., employer's share of OJT wages) (20 CFR section 645.300(c)(1)).
- d. Costs incurred for the construction or purchase of facilities or buildings are not acceptable as a match for WtW grant funds. The value of a building or facility donated as a third party in-kind contribution is also unallowable as a match for WtW funds (20 CFR 645.300(b)(1)(ii)).
- e. Costs financed by program income shall not count towards satisfying a cost-sharing or matching requirement unless they are expressly permitted in the terms of the assistance agreement. Contractors under grants may earn income from activities carried out under the contract in addition to the

amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost-sharing or matching requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the requirement (20 CFR sections 645.300(c)(5) and (6)).

2. Level of Effort - Not Applicable

3. Earmarking

- a. *Distribution to LWIAs* - Of the WtW funds allotted to the State, not less than 85 percent of the State allotment must be distributed to the LWIAs in the State (20 CFR section 645.410(a)).
- b. *Formula Grants* - Expenditures for administration purposes under WtW formula grants to states are limited to 15 percent of the grant award, exclusive of the matching share (20 CFR section 645.235(a)(1)).
- c. *Competitive Grants* - The limitation on expenditures for administration purposes under WtW competitive grants will be specified in the grant agreement, but in no case shall the limitation on administrative costs be more than 15 percent of the grant award (20 CFR section 645.235(a)(2)).
- d. *Long-Term Welfare Dependence Under the 30 Percent Provision* - Not more than 30 percent of the WtW funds allotted or awarded to an operating entity may be spent to assist individuals with long-term welfare dependence characteristics (20 CFR section 645.213).

H. Period of Availability of Federal Funds

1. *Formula Grants* - The maximum time limit for the expenditure of a given fiscal year allotment is five years from the effective date of the Federal grant award to the State (Pub. L. 106-554; 42 USC 403(a)(5)(C)(viii)).
2. *Competitive Grants* - The maximum time limit for the expenditure of these funds is five years from the effective date of the award, but will, in all cases, be determined by the grant period and the terms and conditions specified in the Federal grant award agreement (Pub. L. 106-554; 42 USC 403(a)(5)(C)(viii)).

J. Program Income

1. The addition method is required for use of all program income earned under the WtW grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the WtW program. However, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use

under the grants when these costs have not been charged to the WtW program (20 CFR section 645.230(a)(5)).

2. Any excess revenue over costs incurred for services provided by a governmental or non-profit entity must be included in program income earned (20 CFR section 645.230(a)(6)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272-E, *Major Program Statement*.

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. ETA-9068, *WtW Formula Grant Cumulative Quarterly Financial Status Report (OMB No. 1205-0385)* - This form may be submitted electronically.

For quarters ending on or before March 31, 2001:

Key Line Items - The following line items contain critical information.

- (1) All lines in *Section I. Grant Total*
- (2) All lines in *Section II. Federal Special Projects*
- (3) All lines in *Section III. Pass Through Funds*
- (4) All lines in *Section IV. Federal Program Income*
- (5) The following lines (including sub-lines) in *Section V. Federal Participant Summary*:

Line 31a - *Total Participants Served*

Line 32 - *Total Participants Placed in Unsubsidized Employment*

Line 34 - *Retained 6 Months (2 quarters) in Unsubsidized Employment*

Line 35 - *Earnings Gained in 6 Months (2 quarters) Following Placement in Unsubsidized Employment*

For quarters ending on or after June 30, 2001:

Key Line Items - The following line items contain critical information.

- (1) All lines in *Section I. Grant Total*
- (2) All lines in *Section II. Federal Special Projects*
- (3) All lines in *Section III. Pass Through Funds*
- (4) All lines in *Section IV. Federal Program Income*
- (5) The following lines (including sub-lines) in *Section V. Federal Participant Summary*:

Line 24 - *Total Participants Served*

Line 26 - *Total Participants Placed in Unsubsidized Employment*

Line 29 - *Retained 6 Months (2 quarters) in Unsubsidized Employment*

Line 30 - *Earnings Gained in 6 Months (2 quarters) Following Placement in Unsubsidized Employment*

- b. ETA-9068-1, *WtW Competitive Grant Cumulative Quarterly Financial Status Report (OMB No. 1205-0385)* - This form may be submitted electronically.

For quarters ending on or before March 31, 2001:

Key Line Items - The following line items contain critical information.

- (1) All lines in *Section I. Grant Total*
- (2) All lines in *Section III. Federal Program Income*
- (3) The following lines (including sub-lines) in *Section III. Federal Participant Summary*:

Line 19 - *Total Participants Served*

Line 21 - *Placed in Unsubsidized Employment*

Line 23 - *Retained 6 Months (2 quarters) in Unsubsidized Employment*

Line 24 - *Earnings Gained in 6 Months (2 quarters) Following Placement in Unsubsidized Employment*

For quarters ending on or after June 30, 2001:

Key Line Items - The following line items contain critical information.

- (1) All lines in *Section I. Grant Total*
- (2) All lines in *Section II. Federal Program Income*

- (3) The following lines (including sub-lines) in *Section III. Federal Participant Summary*:

Line 10 - *Total Participants Served*

Line 12 - *Placed in Unsubsidized Employment*

Line 15 - *Retained 6 Months (2 quarters) in Unsubsidized Employment*

Line 16 - *Earnings Gained in 6 Months (2 quarters) Following Placement in Unsubsidized Employment*

N. Special Tests and Provisions

1. Retention of Job Placement Payments

Compliance Requirement - Contracts or vouchers for job placement services supported by funds provided for this program must include a provision to require that at least one-half of the payment occur after an eligible individual placed into the workforce has been in the workforce for six months. This provision applies only to placement in unsubsidized jobs (20 CFR section 645.230(a)(3)).

Audit Objective - To determine whether at least one-half of job placement payments for unsubsidized employment occur six months after the eligible individual has been placed into the workforce for six months.

Suggested Audit Procedures

- a. Review a sample of job placement contracts and verify that the required provision on delaying of payment is included.
- b. Review the entity's procedures and the documentation obtained which relate to delaying payments based on placements into unsubsidized employment.
- c. Test a sample of job placement payments and ascertain if at least one-half of the placement payment was retained until the individual had been placed for six months.

DEPARTMENT OF LABOR

CFDA 17.258 WIA ADULT PROGRAM
CFDA 17.259 WIA YOUTH ACTIVITIES
CFDA 17.260 WIA DISLOCATED WORKERS

I. PROGRAM OBJECTIVES

The Workforce Investment Act of 1998 (WIA) reforms Federal job training programs and creates a new, comprehensive workforce investment system. The reformed system is intended to be customer-focused, to help Americans access the tools they need to manage their careers through information and high quality services, and to help U.S. companies find skilled workers. The cornerstone of the new workforce investment system is One-Stop service delivery, which unifies numerous training, education and employment programs into a single, customer-friendly system in each community so that the customer has access to a seamless system of workforce investment services.

Subtitle B programs for adults and dislocated workers seek to improve employment, retention, and earnings of WIA participants and increase their educational and occupational skill attainment, thereby improving the quality of the workforce, reducing welfare dependency, and enhancing national productivity and competitiveness. Subtitle B Youth activities seek to increase the attainment of basic skills, work readiness or occupational skills, and secondary diplomas or other credentials.

II. PROGRAM PROCEDURES**Subtitle B Statewide and Local Workforce Investment Programs**

This provides the framework for delivery of workforce investment activities at the State and local levels to individuals who need those services, including job seekers, dislocated workers, youth, incumbent workers, new entrants to the workforce, veterans, persons with disabilities, and employers. Each State's Governor is required to establish a State Board; develop a State Workforce Investment Plan (WIA section 112; 29 USC 2822); designate local workforce investment areas; and oversee the creation of Local Boards and One-Stop service delivery systems in the State.

The Local Workforce Investment Board (Local Board) is appointed by the chief elected official in each local area in accordance with State criteria established under WIA section 117(b), and is certified by the Governor every two years. The Local Board, in cooperation with the chief elected official, appoints a youth council as a subgroup of the Local Board and coordinates workforce and youth plans and activities with the youth council, in accordance with WIA section 117(h). With the chief elected official, the Local Board sets policy for the portion of the Statewide workforce investment system within the local area (29 USC 2832).

Each Local Board, in partnership with the appropriate chief elected officials, develops and submits a comprehensive five-year plan to the Governor which identifies and describes certain policies, procedures and local activities that are carried out in the local area, and that is consistent

with the State Workforce Investment Plan and WIA section 118(b) (29 USC 2833(b)). The plan must include a description of the One-Stop delivery system to be established or designated in the local area, including: a copy of the local Memorandums of Understanding (MOU) between the Local Board and each of the One-Stop partners describing the operation of the local One-Stop delivery system; identification of the One-Stop operator or entity responsible for the disbursement of grant funds; and a description of the competitive process to be used to award grants and contracts for activities carried out under this subtitle I of WIA, including the process to be used to procure training services that are made as exceptions to the Individual Training Account process (WIA section 134(d)(4)(G); 29 USC 2864).

The agreement (20 CFR section 662.400(c)) between the Local Board and the One-Stop operator shall specify the operator's role. That role may range between simply coordinating service providers within the center, to being the primary provider of services within the center, to coordinating activities throughout the local One-Stop system. The types of entities that may be selected to be the One-Stop operator include: a postsecondary educational institution; an Employment Service agency established under the Wagner-Peyser Act on behalf of the local office of the agency; a private, nonprofit organization (including a community-based organization); a private for-profit entity; a government agency; and another interested organization or entity. The One-Stop operator may be a single entity or a consortium of entities and may operate one or more One-Stop centers. In addition, there may be more than one One-Stop operator in a local area.

The following Federal programs are required by WIA section 121(b)(1) to be partners in the local One-Stop system: programs authorized under Title I of WIA; public labor exchange programs authorized under the Wagner-Peyser Act (29 USC 49 et seq.); adult education and literacy activities authorized under title II of WIA; programs authorized under parts A and B of title I of the Rehabilitation Act (29 USC 720 et seq.); welfare-to-work programs authorized under sec. 403(a)(5) of the Social Security Act (42 USC 603(a)(5) et seq.); senior community service employment activities authorized under title V of the Older Americans Act of 1965 (42 USC 3056 et seq.); postsecondary vocational education activities under the Carl D. Perkins Vocational and Applied Technology Education Act (20 USC 2301 et seq.); Trade Adjustment Assistance and NAFTA Transitional Adjustment Assistance activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 USC 2271 et seq.); activities authorized under chapter 41 of title 38, USC (local veterans' employment representatives and disabled veterans outreach programs); employment and training activities carried out under the Community Services Block Grant (42 USC 9901 et seq.); employment and training activities carried out by the Department of Housing and Urban Development (WIA sec. 121(b)(1)(B)(xi)); and programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

WIA also provides that other entities that carry out human resource programs, including Federal, State, or local programs and programs in the private sector, may serve as additional partners in the One-Stop system if the Local Board and chief elected official(s) approve the entity's participation. Additional partners may include: Temporary Assistance for Needy Families programs authorized under part A of title IV of the Social Security Act (42 USC 601 et seq.); employment and training programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 USC 2015(d)(4)) and work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 USC 2015(o)); programs authorized under the National and Community Service

Act of 1990 (42 USC 12501 et seq.); and other appropriate Federal, State or local programs, including programs related to transportation and housing and programs in the private sector (WIA sec. 121(b)(2); 29 USC 2841(b)(2)).

All required programs must: make available to participants through the One-Stop delivery system the core services that are applicable to the partner's programs (WIA sec.121(b)(1)(A)); use a portion of funds made available to the partner's program, to the extent not inconsistent with the Federal law authorizing the partner's program, to create and maintain the One-Stop delivery system; and provide core services (WIA sec. 134(d)(1)(B)); enter into a memorandum of understanding (MOU) with the Local Board relating to the operation of the One-Stop system, including a description of services, how the cost of the identified services and operating costs of the system will be funded, and methods for referrals (WIA sec. 121(c)); participate in the operation of the One-Stop system consistent with the terms of the MOU and requirements of authorizing laws (WIA sec. 121(b)(1)(B)); and provide representation on the Local Workforce Investment Board (WIA sec. 117(b)(2)(A)(vi); 20 CFR section 662.230).

The applicable core services may be made available by the provision of appropriate technology at the comprehensive One-Stop center, by co-locating personnel at the center, cross-training of staff, or through a cost reimbursement or other agreement between service providers at the comprehensive One-Stop center and the partner programs, as described in the State Workforce Investment Plan and the local MOU. Core services may also be made available through the networks of affiliated sites and One-Stop partners described in WIA section 134(c)(2) (20 CFR section 662.250).

The workforce investment system established under WIA emphasizes informed customer choice, system performance, and continuous improvement. The eligible provider process is part of the strategy for achieving these goals. A Local Board may not itself provide training services to adults and dislocated workers unless it receives a waiver from the Governor and meets the requirements of WIA section 117(f)(1) (29 USC 2832(f)(1)). Instead, Local Boards, in partnership with the State, identify training providers and programs whose performance qualifies them to receive WIA funds to train adults and dislocated workers. After receiving core and intensive services and in consultation with case managers, eligible participants who need training use the list of these eligible providers, which contains performance and cost information on eligible providers, to make an informed choice (20 CFR section 663.440).

Individual Training Accounts (ITA) are established for eligible individuals to finance training through these eligible providers. Payments from ITAs may be made in a variety of ways, including the electronic transfer of funds through financial institutions, vouchers, or other appropriate methods. Payments may also be made incrementally; through payment of a portion of the costs at different points in the training course (20 CFR section 663.410). Exceptions to the use of ITAs are permissible only where: the services provided are for on-the-job or customized training; where the local board determines that there is an insufficient number of eligible providers available locally; or in the case of programs of demonstrated effectiveness serving participant populations which face multiple barriers to employment (20 CFR section 663.430).

The ability of providers to successfully perform, the procedures State and Local Boards use to establish training provider eligibility, and the degree to which information, including

performance information, on those providers is made available to customers eligible for training services, are key factors affecting the successful implementation of the Statewide workforce investment system (20 CFR section 663.500).

Source of Governing Requirements

The WIA program is authorized by: Title I of the Workforce Investment Act of 1998 (Pub. L. No. 105-220, 112 Stat. 936-1059; 29 USC 2811 et seq.). The regulations are at 20 CFR parts 660-671.

Availability of Other Information

Additional information on programs authorized under the Workforce Investment Act can be found on the Internet at www.usworkforce.org and www.doleta.gov. The *Questions and Answers* and *Policy-Related Information* sections are particularly useful sources of information on compliance issues.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable, and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Waivers and Work-Flex

- a. The Secretary of Labor may waive statutory or regulatory requirements of the adult and youth provisions of the Act and of the Wagner-Peyser Act (29 USC 2939(i)(4); 20 CFR sections 661.400 through .420).
- b. Under an approved Workforce Flexibility plan, a Governor may be granted authority to approve requests for waivers of statutory or regulatory provisions of Title I submitted by local workforce areas (29 USC 2942; 20 CFR sections 661.430 and .440)).

2. Statewide Activities

Statewide workforce investment activities include (20 CFR sections 665.200 and .210):

- a. State administration of the adult, dislocated worker and youth workforce investment activities.

- b. Providing capacity building and technical assistance to local areas, including Local Boards, One-Stop operators, One-Stop partners, and eligible providers.
- c. Conducting research and demonstrations.
- d. Establishing and implementing innovative incumbent worker training programs, which may include an employer loan program to assist in skills upgrading, and programs targeted to empowerment zones and enterprise communities.
- e. Providing support to local areas for the identification of eligible training providers.
- f. Implementing innovative programs for displaced homemakers, and programs to increase the number of individuals trained for and placed in non-traditional employment.
- g. Carrying out adult and dislocated worker employment and training activities as the State determines are necessary to assist local areas in carrying out local employment and training activities.
- h. Carrying out youth activities Statewide.
- i. Preparing the annual performance progress report and submitting it to the Secretary of Labor, as described in 20 CFR section 667.300(e).
- j. Carrying out required rapid response activities.
- k. Disseminating:
 - (1) The State list of eligible providers of training services, for adults and dislocated workers.
 - (2) Information identifying eligible providers of on-the-job training and customized training.
 - (3) Performance and program cost information about these providers.
 - (4) A list of eligible providers of youth activities.
- l. Conducting evaluations, under WIA section 136(e), of workforce investment activities for adults, dislocated workers and youth, in order to establish and promote methods for continuously improving such activities to achieve high-level performance within, and high-level outcomes from, the Statewide workforce investment system.

- m. Providing incentive grants.
- n. Providing technical assistance to local areas that fail to meet local performance measures.
- o. Assisting in the establishment and operation of One-Stop delivery systems, in accordance with the strategy described in the State Workforce Investment Plan.
- p. Providing additional assistance to local areas that have high concentrations of eligible youth.
- q. Operating a fiscal and management accountability information system.

3. Local Activities - Subtitle B Adult and Dislocated Worker Programs

- a. Funds may be used at the local level to pay for core One-Stop system costs as well as for intensive services and training services for program participants.
- b. *Core Services* - The following are core services (20 CFR section 662.240):
 - (1) Eligibility determination for WIA services.
 - (2) Outreach, intake, and orientation to available information and services.
 - (3) Initial assessment of skill levels, aptitudes, abilities and supportive services needs.
 - (4) Career counseling.
 - (5) Job search and placement assistance.
 - (6) Provision of employment statistics and job information.
 - (7) Provision of performance information on eligible providers of training services, youth activities, and adult education.
 - (8) Provision of information on local area performance.
 - (9) Provision of information on availability of supportive services.
 - (10) Provision of information regarding filing Unemployment Insurance (UI) claims.

- (11) Assistance in establishing eligibility for welfare to work activities and programs of financial assistance for training and education programs.
 - (12) Follow-up services including counseling for individual placed into unsubsidized employment for at least 12 months following placement (20 CFR section 663.150).
- c. *Intensive Services* - The following are intensive services (29 USC 2864(d)(3); 20 CFR section 663.200):
- (1) Specialized assessments including diagnostic testing, in-depth interviewing, and evaluation.
 - (2) Development of employment plan.
 - (3) Group counseling.
 - (4) Individual counseling and career planning.
 - (5) Case management.
 - (6) Pre-vocational services, including workplace behavior skills training.
- d. *Training Services* - The following are training services (29 USC 2864(d)(4); 20 CFR section 663.300):
- (1) Occupational training.
 - (2) On the Job Training (OJT) (Employers may be reimbursed up to 50 percent of the wage rate of an OJT participant for the extraordinary costs of providing the training and additional supervision related to the OJT. The employer is not required to document its extraordinary costs (20 CFR section 663.710)).
 - (3) Skill upgrading.
 - (4) Entrepreneurial training.
 - (5) Job readiness training.
 - (6) Adult literacy.
 - (7) Customized training (Customized training is designed to meet the special needs of an employer. Such employers are required to pay at least fifty percent of the training (20 CFR section 663.715)).

- e. At the discretion of the State and local Boards the following services may be provided (29 USC 2864(e)):
 - (1) Customized screening and referral.
 - (2) Supportive services, including needs related payments.

4. Local Activities - Subtitle B Youth Activities

- a. Youth activities can provide a wide array of activities relating to employment, education and youth development. With the exception of the design framework component (e.g., services for intake, objective assessment, and the development of individual service strategy), these activities must be obtained by grant or contract with a service provider. The activities include but are not limited to the following (29 USC 2843 and 2854(c)(2); 20 CFR sections 664.405(a)(4) and .410):
 - (1) Tutoring, study skills training, and instruction leading to completion of secondary school, including dropout prevention strategies.
 - (2) Alternative secondary school services.
 - (3) Summer employment opportunities that are directly linked to academic and occupational learning.
 - (4) Paid and unpaid work experience, including internships and job shadowing.
 - (5) Occupational skills training.
 - (6) Leadership development opportunities, including community service and peer-centered activities encouraging responsibility and other positive social behaviors.
 - (7) Supportive services.
 - (8) Adult mentoring for a period of participation and a subsequent period, for a total of not less than 12 months.
 - (9) Follow-up services.
 - (10) Comprehensive guidance and counseling, including drug and alcohol abuse counseling and referral.

- b. Funds allocated to a local area for eligible youth shall be used for programs that (20 CFR section 664.405):
 - (1) Objectively assess academic levels, occupational skills levels, service needs (i.e., occupational, prior work experience, employability, interests, aptitudes), and supportive service needs of each participant;
 - (2) Develop service strategies that identify an employment goals, achievement objectives, and the appropriate services needed to achieve the goals and objectives for each participant; and
 - (3) Provide post-secondary education preparation, linkages between academic and occupational learning, preparation for unsubsidized employment opportunities, and effective connections to intermediaries with strong links to the job market and local and regional employers.

5. Activities Unallowed - All WIA Programs

WIA title I funds may not be used for the following activities:

- a. Construction or purchase of facilities or buildings (20 CFR 667.260), with the following exceptions:
 - (1) Providing physical and programmatic accessibility and reasonable accommodation, as required under section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended (20 CFR 667.260(a)).
 - (2) Repairs, renovations, alterations and capital improvements of SESA real property and JTPA-owned property which is transferred to WIA title I programs (20 CFR 667.260(b)).
 - (3) Disaster relief employment on projects for demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within a disaster area (WIA sec.173(d); 29 USC 2918(d); 20 CFR 667.260(d)).
- b. Employment generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities not directly related to training for eligible individuals, with the exception of employer outreach and job development activities, which are considered directly related to training for eligible individuals (WIA section 181(e); 29 USC 2931(e); 20 CFR 667.262):

- c. The employment or training of participants in sectarian activities. Participants shall not be employed in the construction, operation, or maintenance of a facility that is or will be used for sectarian instruction or as a place for religious worship. However, WIA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIA participants. (WIA section 188(a)(3); 29 USC 2938(a)(3); 20 CFR 667.266).
- d. Encouraging or inducing the relocation of a business or part of a business from any location in the United States if the relocation results in any employee losing his or her job at the original location (20 CFR 667.268).
- e. Providing customized training, skill training, or on-the-job training or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation resulted in any employee losing his or her job at the original location (20 CFR 667.268(a)).
- f. Paying the wages of incumbent employees during their participation in economic development activities provided through a Statewide workforce investment system (WIA sec.181(b)(1); 29 USC 2931(b)(1); 20 CFR section 667.264(a)(1)).
- g. Public service employment, except to provide disaster relief employment, as specifically authorized in section 173(d) of WIA (WIA sec. 195(10); 29 USC 2945(10); 20 CFR 667.264(a)(2)).

6. Activities Unallowed - All Subtitle B Statewide and Local Programs

Funds available to States and local areas under subtitle B may not be used for foreign travel (29 USC 2931(e)).

B. Allowable Costs/Cost Principles

1. One-Stop Centers

One-Stop Centers - DOL, in a collaborative effort with other Federal agencies, published in the *Federal Register* dated May 31, 2001 (66 FR 29637) a notice that provides guidance on resource sharing methodologies for the shared costs of a One-Stop service delivery system.

2. All Subtitle B Statewide and Local Programs

For those selected items of cost requiring prior approval, the authority to grant or deny approval is delegated to the Governor for youth, adult, and dislocated worker programs (20 CFR section 667.200(c)).

E. Eligibility

1. Eligibility for Individuals

a. All Programs

- (1) *Selective Service* - No participant may be in violation of section 3 of the Military Selective Service Act (50 USC App. 453) by not presenting and submitting to registration under that Act (29 USC 2939(h)).
- (2) *Citizenship* - WIA participants must be citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, assails, and parolees, and other immigrants authorized by the Attorney General to work in the United States (29 USC 2938(a)(5)).

b. All Subtitle B Statewide and Local Programs

- (1) An adult must be 18 years of age or older.
- (2) A dislocated worker means an individual who meets the definition in 29 USC 2801(9).
- (3) A dislocated homemaker means an individual who meets the definition in 29 USC 2801(10).
- (4) Before receiving training services, an adult or dislocated worker must have received at least one intensive service, been determined to be unable to obtain or retain employment through intensive services, and met all of the following requirements (20 CFR sections 663.240 and 663.310):
 - (i) Had an interview, evaluation, or assessment and determined to be in need of training services and have the skills and qualifications to successfully complete the selected training program.
 - (ii) Selected a training service linked to the employment opportunities.

- (iii) Was unable to obtain grant assistance from other sources, including other Federal programs, to pay the costs of the training.

c. Subtitle B Youth Activities

A person is eligible to receive services under Youth Activities if they are between the ages of 14 and 21 at the time of enrollment (20 CFR section 664.200) and demonstrate at least one of the following barriers to employment: deficient in basic literacy skills; a school dropout; homeless, a runaway; a foster child; pregnant or parenting; offender; or an individual who requires additional assistance to complete an educational program, or to secure and hold employment (20 CFR sections 664.200, .205, and .210).

See G.3.a.(6) for requirement that at least 95 percent of eligible youth participants be disadvantaged low-income youth as defined in 29 USC 2801(25).

2. **Eligibility for Groups of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients** - Not Applicable

F. Equipment and Real Property Management

Recipients and subrecipients may permit employers to use WIA-funded, local area services, facilities, or equipment on a fee-for-service basis, to provide employment and training activities to incumbent workers if this does not interfere with utilization by eligible participants and the income generated from such fees is treated as program income (29 USC 2945(13); 20 CFR section 667.200(a)(8)).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**
 - a. **Subtitle B Statewide and Local Programs**

Statewide Activities

- (1) *State Reserve* - A State may reserve up to 15 percent of the amounts allotted for Adult, Dislocated Worker, and Youth Activities. The amounts reserved may be combined and expended

on activities described in 20 CFR sections 665.200 and .210 without regard to funding source (20 CFR section 667.130).

- (2) *Administrative Cost Limits* - A State may spend up to five percent of the amount allotted for the State's administrative costs (i.e., one-third of the 15 percent State Reserve described in the preceding paragraph) (20 CFR section 667.210). The term administrative costs is defined at 20 CFR section 667.220. The funds provided for administrative costs by one of the three funding sources (Adult, Dislocated Worker, and Youth Activities) can be used for administrative costs of the other two sources.

Dislocated Worker Activities - Rapid Response

- (3) *Statewide Rapid Response* - The State must reserve for rapid response activities a portion of funds, up to 25 percent, allotted for dislocated workers. The funds are used to plan and deliver services to enable dislocated workers to transition to new employment as quickly as possible, following either a permanent closure or mass layoff, or a natural or other disaster resulting in a mass job relocation (20 CFR section 667.130(b)).

Local Areas

- (4) *Administrative Cost Limits* - A local area may expend no more than ten percent of the Adult, Dislocated Worker, and Youth Activities funds allocated to the local area under sections 128(b) and 133(b) of the Act for administrative costs. The funds provided for administrative costs by one of the three fund sources (Adult, Dislocated Worker, Youth Activities) can be used for administrative costs of the other two sources (20 CFR section 667.210(a)(2)).

Youth Activities

- (5) *Out-of-School Youth* - Thirty percent of the Youth Activity funds allocated to the local areas, except for the local area expenditures for administration, must be used to provide services to out-of-school youth (20 CFR section 664.320).
- (6) *Low-Income Youth* - A minimum of 95 percent of eligible participants in Youth Activities must meet the criteria of disadvantaged low-income youth as defined in 29 USC 2801(25) (20 CFR section 664.220).

H. Period of Availability of Federal Funds

1. Statewide Activities

Funds allotted to a State for any program year are available for expenditure by the State during that program year and the two succeeding program years (29 USC 2939(g)(2); 20 CFR section 667.107(a)).

2. Local Areas

Funds allocated by a State to a local area for any program year are available for expenditure only during that program year and the succeeding program year. Funds which are not expended by a local area in this two-year period must be returned to the State, which can use the funds for Statewide projects during the third program year of availability, or distribute the funds to local areas which had fully expended their allocation of funds for the same program year within the two-year period (29 USC 2939(g)(2); 20 CFR section 667.107(b)).

I. Procurement and Suspension and Debarment

1. All Subtitle B Statewide and Local Programs

All procurement contracts and other transactions between Local Boards and units of State or local governments must be conducted only on a cost reimbursement basis. No provision for profit is allowed (20 CFR 667.200(a)(3)).

2. Subtitle B Youth Activities

The local board for each local such area shall identify eligible providers of youth activities by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council and on the criteria contained in the State plan (WIA section 123; 29 USC 2843).

J. Program Income

1. The addition method is required for use on all program income earned under WIA grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the WIA program. However, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under the grants when these costs have not been charged to the WIA program (20 CFR section 667.200(a)(5)).
2. WIA specifically includes as program income: (1) receipts from goods and services, including conferences; (2) funds provided to a service provider in excess of the costs associated with the services provided; and, (3) interest income earned on funds received under WIA. Any excess of revenue over costs incurred for

services provided by a governmental or non-profit entity must be included in program income earned (29 USC 2945(7)(B) and 20 CFR section 667.200(a)(6)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272-E, *Major Program Statement*.
- e. *Financial Status Reports* - The following are electronic reporting formats based on the SF-269 Financial Status Report and used to report accrued income and program and administrative expenditures. For additional information on the following six forms under OMB Number 1205-0408, see Training and Employment Guidance Letter No. 16-99 which can be accessed on the Internet at http://wdr.doleta.gov/directives/corr_doc.asp?DOCN=1229 and <http://usworkforce.org/resources/fin-admin.htm>. A separate report is required for each allotment by the DOL. Thus, for a given funding stream, e.g., Dislocated Worker funds, as many as six reports may be due in a given reporting period - two for each of the three years of availability since, at present, there are two WIA allotments for each funding source for a given program year.
 - (1) ETA-9076-A - *Statewide Activities - Financial Status Report* (OMB Number 1205-0408) - The report is by the State to report the State Reserve up to 15 percent of the amounts allotted for Adult, Dislocated, and Youth Activities.
 - (2) ETA-9076-B - *Statewide Rapid Response - Financial Status Report* (OMB Number 1205-0408) - This report is used by the State to report the State-wide Rapid Response reserve of up to 25 percent of amounts allotted for dislocated workers.
 - (3) ETA-9076-C - *Local Administration - Financial Status Report* (OMB Number 1205-0408) - This report is used by the State to report the aggregate amount of local activities subject to the limit

of 10 percent of the State's allocations of Youth, Adult, and Dislocated Worker funds.

- (4) ETA-9076-D - *Local Youth Program Activities - Financial Status Report* (OMB Number 1205-0408) - This is used by the State to report the aggregated amounts of local activity funded by the State's portion of the Youth Activities which is allocated to a State's local areas and not used for administrative expenditures.
- (5) ETA-9076-E - *Local Adult Program Activities - Financial Status Report* (OMB Number 1205-0408) - This is used by the State to report the aggregated amounts of local activity funded by the State's portion of the Adult funds which is allocated to a State's local areas plus transfers to and from local Dislocated Worker funds which are not used for administrative expenditures
- (6) ETA-9076-F - *Local Dislocated Worker Program Activities - Financial Status Report* (OMB Number 1205-0408) - This is used by the State to report the aggregated amounts of local activity funded by the State's portion of the Dislocated Worker funds which is allocated to a State's local areas plus transfers to and from local Adult funds which are not used for administrative expenditures.
- (7) Subrecipients (e.g., local boards) are generally required to report financial information to the pass-through entity (e.g., State). These reports should be tested during audits of subrecipients.

2. Performance Reporting

ETA-9091 - *WIA Annual Report* (OMB Number 1205-0420) - Sanctions related to State performance or failure to submit these reports timely can result in a total grant reduction of not more than five percent as provided in WIA Section 136 (g)(1)(B). This report is accessible on the internet at:
www.usworkforce.org/documents/tegl/tegl-14-00.pdf

WIA Tables in Annual Report - The actual performance level information in the following tables contain critical information.

- a. Table B - Adult Program Results At-A-Glance
- b. Table E - Dislocated Worker Program Results At-A-Glance
- c. Table H - Older Youth Program Results At-A-Glance
- d. Table J - Younger Youth Program Results At-A-Glance

Standardized Record Data (WIASRD) - The WIASRD data records contain relevant data on individual participants' characteristics, activities and outcomes. They are submitted to DOL in support of the Tables in the Annual Report as required at WIA Section 185(d).

WIASRD Key Line Items - The following line items contain critical information:

- a. Item 101 - Individual identifier
- b. Item 601 - Employed in quarter after exit quarter
- c. Item 608 - Employed in third quarter after exit quarter
- d. Item 610 - Employed in fifth quarter after exit quarter

Total earnings from wage records for the: (Items 612 - 618)

- e. Item 612 - Third quarter prior to registration
- f. Item 613 - Third quarter prior to dislocation
- g. Item 614 - Second quarter prior to registration
- h. Item 615 - Second quarter prior to dislocation
- i. Item 617 - Second quarter following the exit quarter
- j. Item 618 - Third quarter following the exit quarter
- k. Item 621 - Type of recognized education/occupational certificate/credential/diploma/degree attained
- l. Item 622 - Other reasons for exit
- m. Item 623 - In postsecondary education or advanced training in quarter after exit
- n. Item 624 - In postsecondary education or advanced training in the third quarter after exit

3. Special Reporting - Not Applicable

M. Subrecipient Monitoring

1. Recipients and Subrecipients

- a. Each recipient and subrecipient must conduct regular oversight and monitoring of its WIA activities and those of its subrecipients and contractors in order to determine whether or not there is compliance with provisions of the Act and applicable laws and regulations and provide technical assistance as necessary and appropriate (20 CFR section 667.400(c)).
- b. Commercial organizations which are subrecipients under WIA title I and which expend more than the minimum level specified in OMB Circular A-133 (\$300,000) must have either an organization-wide audit conducted in accordance with OMB Circular A-133 or a program specific financial and compliance audit (20 CFR section 667.200(b)(2)(ii)).

2. States

- a. Each State must have a monitoring system which:
 - (1) Provides for annual on-site monitoring reviews of local areas' compliance with DOL uniform administrative requirements, as required by WIA section 184(a)(4);
 - (2) Ensures that established policies to achieve program quality and outcomes meet the Act's objectives, including policies relating to the provision of services by One-Stop Centers, eligible providers of training services, and eligible providers of youth activities;
 - (3) Enables the Governor to determine if subrecipients and contractors are in substantial compliance with WIA requirements;
 - (4) Enables the Governor to determine whether a local plan will be disapproved for failure to make acceptable progress in addressing deficiencies; and
 - (5) Enables the Governor to ensure compliance with WIA nondiscrimination and equal opportunity requirements (20 CFR section 667.410(b)).
- b. Each State must conduct an annual on-site monitoring review of each local area's compliance with DOL uniform administrative requirements, including the appropriate administrative requirements and cost principles for subrecipients and other entities receiving WIA funds. The State must require that prompt corrective action be taken if any substantial violations are identified and must impose the sanctions provided in WIA section

184(b) and (c) if a subrecipient fails to take required corrective action. The State may issue additional requirements and instructions to subrecipients on monitoring activities (20 CFR section 667.410(b)).

IV. OTHER INFORMATION

The programs for these three new CFDA's (17.258, 17.259, and 17.260) were included in the March 2001 Compliance Supplement under CFDA 17.255. CFDA 17.255 has been deleted and was replaced in part by these three CFDA's. If CFDA 17.255 was audited as a major program under the March 2001 Compliance Supplement and all three of these programs were audited as part of CFDA 17.255, then as part of the Type A program risk assessment under OMB Circular A-133, this program may be considered as having been audited in the prior year.

DEPARTMENT OF LABOR**CFDA 17.263 YOUTH OPPORTUNITY GRANTS****I. PROGRAM OBJECTIVES**

The Workforce Investment Act of 1998 (WIA) reforms Federal job training programs and creates a new, comprehensive workforce investment system. The reformed system is intended to be customer-focused, to help Americans access the tools they need to manage their careers through information and high quality services, and to help U.S. companies find skilled workers. The cornerstone of the new workforce investment system is One-Stop service delivery, which unifies numerous training, education and employment programs into a single, customer-friendly system in each community so that the customer has access to a seamless system of workforce investment services.

Subtitle D programs (National programs) serve population segments which typically experience more severe workforce problems. Accordingly, Youth Opportunity Grants (YOG) under Subtitle D of Title I aims at increasing the long-term employment of youth who live in empowerment zones, enterprise communities, and high-poverty areas.

II. PROGRAM PROCEDURES

The Department of Labor (DOL) awards YOG to local areas through a grant competition open to Local Boards and WIA Section 166 Native American Grantees. The legislation restricts YOG to communities designated as urban and rural empowerment zones and enterprise communities (EZ/ECs) under the Internal Revenue Code, Indian Reservations and Alaskan Native Villages, and high-poverty areas designated specifically by Governors as eligible for this program (29 USC 2914(c) and (d)). Grants are for a one year period but grantees can receive up to four additional years of funding, with funding levels declining over time (29 USC 2914(a)(3)).

Typically, sub-grants are made to community-based organizations, local public schools, and for-profit organizations. Services can be provided in schools outside the target area, as long as the services are limited to youth who reside in the target area. Funds are to be used to affect community-wide issues, including drop-out rates, youth and skills development, and unemployment.

Source of Governing Requirements

The WIA program is authorized by: Title I of the Workforce Investment Act of 1998 (Pub. L. No. 105-220, 112 Stat. 936-1059; 29 USC 2811 et seq.). The regulations are at 20 CFR parts 660-671.

Availability of Other Information

Additional information on programs authorized under the Workforce Investment Act can be found on the Internet at www.usworkforce.org and www.doleta.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable, and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Activities Allowed

YOG grantees shall use funds to provide a wide array of activities relating to employment, education, and youth development, as described in 29 USC 2843 and 2854(c)(2) and 20 CFR sections 664.405(a)(4) and 664.410. These activities include but are not limited to dropout prevention efforts, alternative schools, summer jobs, paid and unpaid work experience, occupational skills training, activities encouraging personal responsibility, supportive services, adult mentoring, follow-up services, and counseling. Activities also may include leadership development, citizenship, community service, and recreation activities (29 USC 2914(b)).

2. Activities Unallowed

Funds may not be used for the following activities:

- a. Construction or purchase of facilities or buildings (20 CFR 667.260), with the following exceptions:
 - (1) Providing physical and programmatic accessibility and reasonable accommodation, as required under section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended (20 CFR 667.260(a)).
 - (2) Repairs, renovations, alterations and capital improvements of SESA real property and JTPA-owned property which is transferred to WIA title I programs (20 CFR 667.260(b)).
 - (3) Disaster relief employment on projects for demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within a disaster area (WIA sec.173(d); 29 USC 2918(d); 20 CFR 667.260(d)).
- b. Employment generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities not directly related to training for eligible individuals, with the exception of employer outreach and job development activities, which are considered

directly related to training for eligible individuals (WIA section 181(e); 29 USC 2931(e); 20 CFR 667.262):

- c. The employment or training of participants in sectarian activities. Participants shall not be employed in the construction, operation, or maintenance of a facility that is or will be used for sectarian instruction or as a place for religious worship. However, WIA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIA participants. (WIA section 188(a)(3); 29 USC 2938(a)(3); 20 CFR 667.266).
- d. Encouraging or inducing the relocation of a business or part of a business from any location in the United States if the relocation results in any employee losing his or her job at the original location (20 CFR 667.268).
- e. Providing customized training, skill training, or on-the-job training or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation resulted in any employee losing his or her job at the original location (20 CFR 667.268(a)).
- f. Paying the wages of incumbent employees during their participation in economic development activities provided through a Statewide workforce investment system (WIA sec.181(b)(1); 29 USC 2931(b)(1); 20 CFR section 667.264(a)(1)).
- g. Public service employment, except to provide disaster relief employment, as specifically authorized in section 173(d) of WIA (WIA sec. 195(10); 29 USC 2945(10); 20 CFR 667.264(a)(2)).

B. Allowable Costs/Cost Principles

One-Stop Centers - DOL, in a collaborative effort with other Federal agencies, published in the *Federal Register* dated May 31, 2001 (66 FR 29637) a notice that provides guidance on resource sharing methodologies for the shared costs of a One-Stop service delivery system.

E. Eligibility

1. Eligibility for Individuals

- a. Youth between the ages of 14 through 21 at enrollment who reside in the target community specified in the grant document are eligible for services under YOG (20 CFR section 664.820).

- b. *Selective Service* - No participant may be in violation of section 3 of the Military Selective Service Act (50 USC App. 453) by not presenting and submitting to registration under that Act (29 USC 2939(h)).
- c. *Citizenship* - WIA participants must be citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, assails, and parolees, and other immigrants authorized by the Attorney General to work in the United States (29 USC 2938(a)(5)).

2. Eligibility for Groups of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

F. Equipment and Real Property Management

Recipients and subrecipients may permit employers to use WIA-funded, local area services, facilities, or equipment on a fee-for-service basis, to provide employment and training activities to incumbent workers if this does not interfere with utilization by eligible participants and the income generated from such fees is treated as program income (29 USC 2945(13); 20 CFR section 667.200(a)(8)).

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2. Level of Effort - Not Applicable

3. Earmarking

Administrative Cost Limits - The percentage of grant funds which may be expended on administrative costs is specified in the grant or contract award document (20 CFR section 667.210(b)). The term administrative costs is defined at 20 CFR section 667.220.

H. Period of Availability of Federal Funds

The period of availability for expenditures is set out in the terms and conditions of the award document (20 CFR section 667.107(e)).

I. Procurement and Suspension and Debarment

All procurement contracts and other transactions between Local Boards and units of State or local governments must be conducted only on a cost reimbursement basis. No provision for profit is allowed (20 CFR 667.200(a)(3)).

J. Program Income

1. The addition method is required for use on all program income earned under WIA grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the WIA program. However, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under the grants when these costs have not been charged to the WIA program (20 CFR section 667.200(a)(5)).
2. WIA specifically includes as program income: (1) receipts from goods and services, including conferences; (2) funds provided to a service provider in excess of the costs associated with the services provided; and, (3) interest income earned on funds received under WIA. Any excess of revenue over costs incurred for services provided by a governmental or non-profit entity must be included in program income earned (29 USC 2945(7)(B) and 20 CFR section 667.200(a)(6)).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272-E, *Major Program Statement*.

2. Performance Reporting

ETA-9087. Youth Opportunity Quarterly Program Progress Report, (OMB No. 1205-0414) which reports total participants entering employment, skill attainment, credentials received, retention in employment, retention in school, and diploma received.

Key Line Items - The following line items contain critical information:

Section B. Status of Contacted Youth at Follow-Up

- (1) B.1 Working Full-time Only
- (2) B.3 In School Only

- (3) B.5 Working FT & Participating in Education or Training
- (4) B.6 Working PT & Participating in Education or Training
- (5) B.7 Not Working , Not in School or Training
- (6) B.8 In Correctional Institutions
- (7) B.9 Other

M. Subrecipient Monitoring

1. Each recipient and subrecipient must conduct regular oversight and monitoring of its WIA activities and those of its subrecipients and contractors in order to determine whether or not there is compliance with provisions of the Act and applicable laws and regulations and provide technical assistance as necessary and appropriate (20 CFR section 667.400(c)).
2. Commercial organizations which are subrecipients under WIA title I and which expend more than the minimum level specified in OMB Circular A-133 (\$300,000) must have either an organization-wide audit conducted in accordance with OMB Circular A-133 or a program specific financial and compliance audit (20 CFR section 667.200(b)(2)(ii)).

IV. OTHER INFORMATION

This program was included in the March 2001 Compliance Supplement under CFDA 17.255. CFDA 17.255 has been deleted and was replaced in part by this program. If CFDA 17.255 was audited as a major program under the March 2001 Compliance Supplement and this program was audited as part of CFDA 17.255, then as part of the Type A program risk assessment under OMB Circular A-133, this program may be considered as having been audited in the prior year.

DEPARTMENT OF TRANSPORTATION

CFDA 20.106 AIRPORT IMPROVEMENT PROGRAM

I. PROGRAM OBJECTIVES

The objective of the Airport Improvement Program is to assist sponsors, owners, or operators of public-use airports in the development of a nationwide system of airports adequate to meet the needs of civil aeronautics.

II. PROGRAM PROCEDURES

States, counties, municipalities, U.S. Territories and possessions, and other public agencies, including Indian tribes or Pueblos (sponsors) are eligible for airport development grants if the airport on which the development is required is listed in the National Plan of Integrated Airport Systems (NPIAS). Applications for grants must be submitted to the appropriate Federal Aviation Administration (FAA) Airports Office. Primary airport sponsors must notify FAA by January 31 or another date specified in the *Federal Register* of their intent to apply for funds which they are entitled to under Pub. L. No. 97-248 (49 USC Chapter 31). A reminder is published annually in the *Federal Register*. Other sponsors are encouraged to submit early in the fiscal year and to contact the appropriate FAA Airports Office for any local deadlines. Sponsors must formally accept grant offers no later than September 30 for grant funds appropriated for that fiscal year.

Source of Governing Requirements

This program is authorized by 49 USC Chapter 471.

Availability of Other Program Information

Additional program information is provided in FAA Order 5100.38A, *Airport Improvement Program Handbook* (available on the Internet at www.faa.gov/arp/510home.htm) and FAA Advisory Circulars in the 150/5100 series (available on the Internet at www.faa.gov/arp/150acs.htm). The FAA also maintains an Airports *Federal Register* Notice page available on the Internet at www.faa.gov/arp/fedreg.htm.

Program related questions may be directed to Ken Ball, FAA Airports Financial Assistance Division, at 202-267-7436 (direct) and 202-267-3831 (main) or by e-mail at Kendall.Ball@faa.dot.gov. Questions related to the revenue diversion requirement may be directed to Lyle Fjermedal, FAA Airport Compliance Division at 202-267-5879 (direct) and 202-267-3446 (main) or by e-mail at Lyle.Fjermedal@faa.dot.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Activities Allowed

Grants can be made for planning, constructing, improving, or repairing a public-use airport or portion thereof and for acquiring safety or security equipment. Eligible terminal building development is limited to nonrevenue-producing public-use areas that are directly related to the movement of passengers and baggage in air carrier and commuter service terminal facilities within the boundaries of the airport. Eligible construction is limited to items of work and to the quantities listed in the grant description and/or special conditions (49 USC 47110).

2. Activities Unallowed

a. In general, Federal funds cannot be expended for:

- Passenger automobile parking facilities, buildings to be used as hangars, and portions of terminals that are revenue-producing or not directly related to the safe movement of passengers and baggage at the airports, and
- Costs incurred before the execution of the grant agreement, unless such costs are for land, necessary costs in formulating a project, or costs covered by a letter of intent. However, an airport designated by the FAA as a primary airport may use passenger entitlement funding made available under 49 CFR 47114(c) for costs incurred: (1) prior to the execution of the grant agreement; (2) in accordance with the airport layout plan approved by the FAA; and (3) according to all statutory and administrative requirements that would have applied had work on the project not commenced until after the grant agreement had been executed (49 USC 47110(b)(2)(C)).

b. The following are examples of items for which FAA funds cannot be expended (FAA Order 5100.38A, *Airport Improvement Program Handbook*, and FAA Advisory Circulars in the 150/5100 series.)

- Fuel farms.
- Emergency planning.

- Decorative landscaping, sculpture, or art works.
- Communication systems, except those used for safety/security.
- Training facilities, except those included in an otherwise eligible project as an integral part of that project and that are of a relatively minor or incidental cost, i.e., less than 10 percent of the project cost. An example of an exception would be a training room included as part of a new Aircraft Rescue and Firefighting (ARFF) facility. Interactive training systems and "live fire" ARFF training facilities are eligible.
- Roads of whatever length, exclusively for the purpose of connecting public parking facilities to an access road.
- Roads serving solely industrial or non-aviation-related areas or facilities.
- General aviation terminals.
- Equipment that is used by air traffic controllers such as Airport surface detection systems (ASDE).
- Maintenance/service facilities except for those allowed to service required ARFF equipment.
- Office/administrative equipment, including data processing equipment, computers, recorders, etc.
- Projects for the determination of latitude, longitude, and elevation except as an incidental part of master planning.

3. Exception

For a non-hub airport (one that accounts for less than 0.05 percent of total U.S. passenger boardings), the FAA may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, repair, and improvement of parking lots (49 USC 47110(d)(2)).

F. Equipment and Real Property Management

Under this program, FAA is authorized by 49 USC 47107(c), as amended, to allow recipients to reinvest the proceeds from the disposition of real property acquired with Federal awards for noise compatibility or airport development purposes.

G. Matching, Level of Effort, Earmarking**1. Matching**

The shares of allowable costs for a particular grant-supported project to be borne by FAA and by other parties are established in the grant agreement.

2. Level of Effort - Not Applicable**3. Earmarking - Not Applicable****L. Reporting****1. Financial Reporting**

a. SF-269, *Financial Status Report* - Applicable

b. SF-270, *Request for Advance or Reimbursement* - Applicable

c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Applicable

d. SF-272, *Federal Cash Transactions Report* - Applicable

e. FAA Form 5100-125, *Operating and Financial Summary (OMB No. 2120-0557)*

Sponsors of commercial service airports are required to submit this report, which captures revenues and expenditures at the airport, including revenue surplus.

f. FAA Form 5100-126, *Financial Government Payment Report (OMB No. 2120-0557)*

This report captures amounts paid and services provided to other units of government. This reporting requirement technically applies to all sponsors of Federally-assisted airports who accepted grants with assurance no. 26(d)(I)(ii); however, FAA is currently requiring submission only from commercial service airports. Commercial service airports are the airports most likely to generate excess revenue that could be diverted to non-airport uses.

2. Performance Reporting - Not Applicable**3. Special Reporting - Not Applicable**

N. Special Tests and Provisions

1. Revenue Diversion

Compliance Requirement - The basic requirement for use of airport revenues is that all revenues generated by a public airport must be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and are directly and substantially related to the actual air transportation of passengers or property. The limitation on the use of revenue generated by the airport shall not apply if the governing statutes controlling the owner's or operator's financing, that was in effect before September 3, 1982, provided for the use of any revenue from the airport to support not only the airport but also the airport owner's or operator's general debt obligations or other facilities (49 USC 47107(b)).

Policies and Procedures Concerning the Generation and Use of Airport Revenue, issued February 16, 1999 (64 FR 7695), contains definitions of airport revenue and unlawful revenue diversion; provides examples of airport revenue; and describes permitted and prohibited uses of airport revenue. The policy can be obtained from FAA's Airports *Federal Register* Notices Page on the Internet (www.faa.gov/arp/fedreg.htm).

Penalties imposed for revenue diversion may be up to three times the amount of the revenues that are used in violation of the requirement (49 USC 4603(a)(5)).

Audit Objective - Determine whether the airport revenues were used for required or permitted purposes.

Suggested Audit Procedures

- a. Review the policy for using airport revenue.
- b. Perform tests of airport revenue generating activities (e.g., passenger facilities charges, leases, and telephone contracts) to ascertain that all airport generated revenue is accounted for.
- c. Test expenditures of airport revenue to verify that airport revenue is used for permitted purposes.
- d. Perform tests of transactions to ascertain that payments from airport revenues to the sponsors, related parties, or other governmental entities are airport-related, properly documented, and are commensurate with the services or products received by the airport.
- e. Perform tests to assure that indirect costs charged to the airport from the sponsor's cost allocation plan were allocated in accordance with the FAA policy on cost allocation.

IV. OTHER INFORMATION

The Federal Aviation Reauthorization Act of 1996, Section 805 (49 USC 47107(m)) requires public agencies that are subject to the Single Audit Act Amendments of 1996 (Act) that have received Federal financial assistance for airports to include as part of their single audit a review and opinion of the public agency's funding activities with respect to their airport or local airport revenue system. In the February 16, 1999, *Federal Register* (64 FR 7675) the FAA issued a notice titled *Policy and Procedures Concerning the Use of Airport Revenue*. This notice provides that the opinion required by 49 USC 47107(m) is only required when the Airport Improvement Program (AIP) is audited as major program under Circular A-133 and that the auditor reporting requirements of Circular A-133 satisfy the opinion requirement. However, the notice provides that the AIP may be selected as a major program based upon either the risk-based approach prescribed in Circular A-133 §___ .520 or the FAA designating the AIP as a major program under §___ .215(c).

DEPARTMENT OF TRANSPORTATION**CFDA 20.205 HIGHWAY PLANNING AND CONSTRUCTION (Federal-Aid Highway Program)****CFDA 23.003 APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM****I. PROGRAM OBJECTIVES**

The objectives of the Highway Planning and Construction Cluster are to: (1) assist States in the planning and development of an integrated, interconnected transportation system important to interstate commerce and travel by constructing and rehabilitating the National Highway System (NHS), including Interstate highways and most other public roads; (2) provide aid for the repair of Federal-aid highways following disasters; (3) foster safe highway design, and replace or rehabilitate structurally deficient or functionally obsolete bridges; and (4) to provide for other special purposes. This cluster also provides for the improvement of roads in Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Marina Islands, the Alaskan Highway, and the Appalachian Development Highway System (ADHS). The objective of the ADHS program is to provide a highway system which, in conjunction with other Federally-aided highways, will open up areas with development potential within the Appalachian region where commerce and communication have been inhibited by lack of adequate access.

II. PROGRAM PROCEDURES

Federal-aid highway funds are generally apportioned by statutory formulas to the States and generally restricted to use on Federal-aid highways (i.e., roads open to the public and not functionally classified as local). Exceptions to the use on Federal-aid highways include planning and research activities, bridge and safety improvements which may be on any public road, and the Federal Lands Highway Program. Some categories of funds may be granted directly to Local Public Agencies (LPAs), such as cities, counties, tribal governments, Metropolitan Planning Organizations (MPOs), and other political subdivisions. States also may pass apportioned funds through to such agencies. Federal-aid funds may be used for surveying, engineering, right-of-way acquisition, and relocation assistance for capital improvement projects classified as new construction, reconstruction, improvements for functional, geometric, or safety reasons, and 4R projects (restoration, rehabilitation, resurfacing, and reconstruction); planning; research, development, and technology transfer; intelligent transportation systems projects; roadside beautification; wetland and natural habitat mitigation; traffic management and control improvements; improvements necessary to accommodate other transportation modes; development and establishment of transportation management systems; billboard removal; construction of bicycle facilities and pedestrian facilities; fringe and corridor parking; car pool and van pool projects; and transportation enhancements, such as scenic and historic highway improvements. These funds generally cannot be used for routine highway operational activities, such as police patrols, mowing, snow plowing, or maintenance, unless it is preventative maintenance. Also, authorizations for the Surface Transportation Program (STP) and Congestion Mitigation and Air Quality (CMAQ) Improvement Program, may be used for capital improvements to mass transit; CMAQ funds are for projects and programs in air quality, non-attainment and maintenance areas for ozone, carbon monoxide, and small particulate matter,

which reduce transportation related emissions. ADHS projects are subject to the same standards, specifications, policies, and procedures as other Federal-aid highway projects.

Eligibility criteria for the programs differ, so program guidance should be consulted. Projects in urban areas of 50,000 or more population must be based on a transportation planning process carried out by the MPOs in cooperation with the State and transit operators, and be included in metropolitan plans and programs. Projects in nonmetropolitan areas of a State must be consistent with the State's Transportation Plan. All projects must also be included in the approved Statewide transportation improvement program (STIP) and are developed as part of the required Statewide transportation planning process.

In the case of the ADHS program, the Appalachian Regional Commission determines if the State approved project is eligible within an approved Appalachian Highway Plan and notifies FHWA of centerline approval. The FHWA determines if the project satisfies all Federal requirements, administers the grants, and disburses the funds.

Source of Governing Requirements

The primary sources of program requirements are 23 USC (Highways). Implementing regulations are found in 23 CFR (Highways).

Availability of Other Program Information

The Federal Highway Administration maintains a Website that provides program laws, regulations, and other general information (www.fhwa.dot.gov).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Federal funds can be used only to reimburse costs that are: (1) incurred subsequent to the date of authorization to proceed, except for certain property acquisition costs permitted under 23 USC 108; (2) in accordance with the conditions contained in the project agreement and the plans, specifications, and estimates (PS&E); (3) allocable to a specific project; and, (4) claimed for reimbursement subsequent to the date of the project agreement (23 CFR sections 1.9, 630.106, 630.205, and 630.303).
2. Federal funds can be used to reimburse for administrative settlement costs incurred in defending contract claim proceedings before arbitration boards or State courts only if approved by FHWA for Federal-aid projects. If special

counsel is used, it must be recommended by the State Attorney or State DOT legal counsel and approved in advance by FHWA (23 CFR section 140.505).

3. Costs incurred by the State DOT or MPO for highway planning and research work are subject to prior approval by FHWA (23 CFR section 420.111).
4. STP funds may be used by the State for the cost of tuition and direct educational expenses (excluding salaries) of State and local transportation agency employees (23 USC 504(a)(4)).

F. Equipment and Real Property Management

The State shall charge, at a minimum, a fair market value for the sale, lease, or use of real property acquired with Federal assistance from the Highway Trust Fund (other than the Mass Transit Account) for the non-transportation purposes and shall use such income for projects eligible under 23 USC. Exceptions may be granted when the property is used for social, environmental or economic purposes (23 USC 156).

G. Matching, Level of Effort, Earmarking Requirements

1. Matching

- a. The State is generally required to pay a portion of the project costs. Portions vary according to the type of funds authorized and are stated in project agreements.
- b. A State's matching share for a project may be credited by certain toll revenues used to build or improve highways, bridges and tunnels (23 USC 120(j)).
- c. Donations of funds, materials, and services may be credited towards a State's matching share. Donated materials and services must meet the eligibility requirements of the project. However, donations of services by units of local government cannot be credited against the State share of the project (23 USC 323(c) and (e)).
- d. The fair market value of land provided by State or local governments for highway purposes is eligible for matching share on a project. The fair market value of donated land shall not include any increase or decrease in value of donated land caused by the project. The fair market value of donated land shall be established as of the earlier of (1) the date on which the donation becomes effective or (2) the date on which equitable title to the land vests in the State (23 USC 323(b)).
- e. For transportation enhancement (TE) projects, funds from Federal agencies (except U.S. DOT) may be used for the non-Federal share of the project. Credit for the value of donations of funds, materials, land, or

services (including the value of local and State government services, materials and land applied to the project and the cost of preliminary engineering prior to project approval) may be credited toward the non-Federal share (23 USC 133(e)(5)(C)).

- f. Funds appropriated to any Federal land management agency may be used to pay the non-Federal share of any Federal-aid highway project funded under 23 USC 104 (23 USC 120(k)).
- g. Federal Lands Highway Program funds may be used to pay the non-Federal share of Federal-aid highway projects which provide access to or within Federal or Indian lands (23 USC 120(l)).

2. Level of Effort - Not Applicable

3. Earmarking - Not Applicable

J. Program Income

State and local governments may only use the Federal share of net income from the sale, use, or lease of property previously acquired with Federal funds if the income is used for projects eligible under 23 USC (23 USC 156).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. PR-20, *Voucher for Work Under Provisions of the Federal-Aid and Federal Highway Acts, as Amended (OMB No. 2125-0507)*

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Use of Other State or Local Government Agencies

Compliance Requirement - A State may use other public land acquisition organizations or private consultants to carry out the State's authorities under 23 CFR 710.201(b) in accordance with a written agreement (23 CFR 710.201(h)).

Audit Objective - Determine whether other public land acquisition organizations or private consultants are carrying out the State's authorities under 23 CFR 710.201(b) in accordance with their agreements with the State.

Suggested Audit Procedures

- a. Examine records and ascertain if other agencies were used for right-of-way activities on Federal-aid projects.
- b. Review a sample of right-of-way agreements with other agencies.
- c. Perform tests of selected right-of-way activities to other agencies to verify that they comply with the written agreement.

2. Replacement of Publicly Owned Real Property

Compliance Requirement - Federal funds may be used to reimburse the reasonable costs actually incurred for the functional replacement of publicly-owned and publicly-used real property provided that FHWA concurs that it is in the public interest. The cost of increases in capacity and other betterments are not eligible except: (1) if necessary to replace utilities; (2) to meet legal, regulatory, or similar requirements; or (3) to meet reasonable prevailing standards for the type of facility being replaced (23 CFR 710.509).

Audit Objective - Determine whether the functional replacement of real property was accomplished within FHWA requirements.

Suggested Audit Procedures

- a. Ascertain if there were any functional replacements of publicly-owned real property.
- b. Verify that FHWA concurred in the State's determination that the functional replacement is in the public interest.
- c. Review a sample of transactions involving functional replacements and verify that the transactions were consistent with the FHWA requirements.

3. Project Extensions

Compliance Requirement - FHWA must approve extensions affecting project costs or the amount of liquidated damages, except those for projects administered by the State DOT under 23 USC 106(c) which allow the State DOT to assume the responsibilities for design, plans, specifications, estimates, contract awards and inspection of progress (23 USC 106(c); 23 CFR section 635.121).

Audit Objective - Determine whether proper FHWA approvals were obtained for contract extensions affecting project costs and the amount of liquidated damages assessed.

Suggested Audit Procedures

- a. Review the systems for monitoring and controlling contract time and review project files to determine if there were project extensions.
- b. Verify that FHWA approval was obtained for time extensions affecting project cost and, where applicable, the amount of liquidated damages assessed.

4. Sampling Program

Compliance Requirement - A State DOT or LPA must have a sampling and testing program for projects to ensure that materials and workmanship generally conform to approved plans and specifications (23 CFR section 637.205).

Audit Objective - Determine whether the State is following a quality assurance program that meets FHWA's requirements.

Suggested Audit Procedures

- a. Obtain an understanding of the recipient's sampling and testing program.
- b. Review documentation of test results on a sample basis to verify that the proper number of tests are being taken in accordance with the program.

5. Contractor Recoveries

Compliance Requirement - When a State recovers funds from highway contractors for project overcharges due to bid-rigging, fraud, or anti-trust violations or otherwise recovers compensatory damages, the Federal-aid project involved shall be credited with the Federal share of such recoveries (Tennessee v. Dole 749 F.2d 331 (6th Cir. 1984); 57 Comp. Gen. 577 (1978); 47 Comp. Gen. 309 (1967)).

Audit Objective - Determine whether the proper credit was made to the Federal share of a project when recoveries of funds are made.

Suggested Audit Procedures

- a. Determine the extent to which the State has recovered overcharges and other compensatory damages on Federal-aid projects through appropriate interviews and a review of legal, claim, and cash receipt records.
- b. Review a sample of cash receipts and verify that appropriate credit is reflected in billings to the Federal Government.

6. Project Approvals

Compliance Requirement - Construction projects administered under standard procedures cannot be advertised nor force account work commenced until FHWA: (1) approves the plans, specifications, and estimates; and (2) authorizes the State DOT to advertise for bids or approves the force account work (23 CFR sections 630.205(c), 635.112(a), 635.204, and 635.309). Construction cannot begin until after FHWA concurs in the contract award (23 CFR section 635.114). This requirement does not apply to construction projects administered by the State DOT under 23 USC 106(c) which allow the State DOT to assume the responsibilities for design, plans, specifications, estimates, contract awards, and inspection of progress (23 USC 106(c)).

Audit Objective - Determine whether project activities are started with required Federal approvals.

Suggested Audit Procedures

- a. Review a sample of projects and identify dates of the necessary approvals, authorizations, and concurrences.
- b. Identify dates that projects were advertised and contract or force account work was initiated and compare to FHWA's approval dates.

DEPARTMENT OF TRANSPORTATION

- CFDA 20.500** **FEDERAL TRANSIT -- CAPITAL INVESTMENT GRANTS
(Capital Grants)**
- CFDA 20.507** **FEDERAL TRANSIT -- FORMULA GRANTS (Urbanized Area
Formula Program)**

I. PROGRAM OBJECTIVES

The objectives of the Federal Transit -- Capital Investment Grants (49 USC 5309) and Federal Transit -- Urbanized Area Formula Grants (49 USC 5307) programs are to assist in financing the planning, acquisition, construction, preventative maintenance, and improvement of facilities and equipment in mass transportation services. Operating expenses are also eligible in urbanized areas with populations of less than 200,000.

II. PROGRAM PROCEDURES

Grants are awarded to public agencies on approval of applications for specific programs or projects submitted to the Federal Transit Administration (FTA). FTA monitors the progress of those projects through on-site inspections, telephone contacts, correspondence, and quarterly progress and financial status reports. FTA provides funds based on a project's progress.

Source of Governing Requirements

The programs in this cluster are authorized by 49 USC 5307 and 5309. Program regulations are at 49 CFR parts 601 through 665.

Availability of Other Program Information

Additional information is available on FTA's web site at www.fta.dot.gov. FTA is required to perform reviews and evaluations of 49 USC 5307 grant activities at least every three years. FTA Order 9010.1B, "Triennial Reviews," dated April 5, 1993, provides guidance to FTA staff and recipients on the conduct of triennial reviews. These reviews are conducted with specific reference to compliance with statutory and administrative requirements and consistency of actual program activities with (1) the approved program of projects, and (2) the planning process required under 49 USC 5303. Copies of these triennial reviews are available from the regional offices. Regional office addresses and phone numbers are available on FTA's web site listed above.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

The activities allowed are specified in the grant agreement.

F. Equipment and Real Property Management

Any disposition of equipment before the end of its useful life is subject to prior FTA concurrence in the method of disposition. Unless otherwise determined in writing by FTA, the fair market value for rolling stock removed from service before the end of its useful life is the FTA share of the unamortized value of the remaining service life, based on straight line depreciation of the original purchase price, based upon the date the equipment was removed from revenue service rather than the date of disposal. FTA standards for the useful life of vehicles are contained in FTA Circular 9030.1C, *Urbanized Area Formula Program: Grant Application Instructions*, Chapter V, Paragraph 9, Buses; and FTA Circular 9300.1A, *Capital Program: Grant Application Instructions*, Chapter III, Paragraph 8, Requirements Related to Bus Purchases. These circulars are available on the FTA National Transit Library page on the Internet (<http://www.fta.dot.gov/ntl/index.html>). Recipients, with FTA approval, are allowed to sell, transfer, or lease property, equipment, or supplies acquired with Federal transit funds that is no longer needed for transit purposes. The proceeds must be used to reduce the gross project costs of another Federally funded capital transit project (49 USC 5334(g)(4) and 49 CFR section 18.32).

G. Matching, Level of Effort, Earmarking Requirements**1. Matching**

The share of allowable costs for a particular grant is established in the grant agreement.

2. Level of Effort - Not Applicable**3. Earmarking - Not Applicable****I. Procurement and Suspension and Debarment**

1. *Buy America* - The FTA may obligate no funds for a grant project unless all steel, iron, and manufactured products used in the project are manufactured in the U.S., as demonstrated by a Buy America certificate, or the recipient has obtained a waiver pursuant to one of the following provisions.

- a. The Secretary may grant specific waivers following case-by-case determinations that: (1) applying the requirement would be inconsistent with the public interest; (2) the goods are not produced in the U.S. in a sufficient and reasonably available quantity and of satisfactory quality; or (3) the inclusion of the domestically produced material will increase the

overall project cost by more than 25 percent (49 CFR sections 661.7(b) through (d)).

- b. Program regulations provide for a permanent waiver for certain procurements of rolling stock. The Buy America requirements are satisfied for rolling stock purchases if the cost of components and subcomponents produced in the U.S. is more than 60 percent of the cost of all components and subcomponents, and final assembly of the vehicle takes place in the U.S. (49 CFR section 661.11).
- c. Appendix A to 49 CFR section 661.7 provides permanent, self-executing waivers for the following items:
 - (1) Those articles, materials, and supplies exempted from the Buy America Act of 1933 as listed in 48 CFR section 25.104 ;
 - (2) The U.S. final assembly requirements for 15 passenger Chrysler vans and wagons;
 - (3) Microcomputer equipment, including software; and
 - (4) All "small purchases" (under \$100,000) made by FTA recipients.

A recipient that purchases rolling stock for transportation of fare-paying passengers must conduct, or cause to be conducted, a pre-award audit before entering a formal contract for the purchase of rolling stock, and that a post-delivery audit is complete before title to the rolling stock is transferred. Pre-award and post-delivery audits verify the accuracy of the Buy America certification, purchaser's requirements certification, and certification of compliance with or inapplicability of Federal motor vehicles safety standards (49 CFR part 663).

2. *Disadvantaged Business Enterprises (DBE)* - Recipients shall require that each transit vehicle manufacturer certify that it has complied with the requirements of 49 CFR section 26.49, as a condition to bid on a transit vehicle procurement in which FTA funds are involved. Recipients may, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles that a transit vehicle manufacturer must meet (49 CFR section 26.49(d)).
3. *Procurement of Vehicles and Facilities* - In prohibiting discrimination in the provision of transportation services against persons with disabilities, the Americans with Disabilities Act of 1990 (ADA) requires that vehicles purchased or leased after August 25, 1990, and new and altered facilities designed and constructed (as marked by the notice to proceed) after January 25, 1992, must comply with the applicable standards of accessibility in 49 CFR parts 37 and 38 (42 USC 12101-12213).

L. Reporting

1. Financial Reporting

- a. SF-269A, *Financial Status Report (Short Form)* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *Report of DBE Awards and Commitments (OMB No. 2105-0510)* - Based on the level of FTA funding, exclusive of transit vehicle purchases, recipients are required to implement a DBE program. To monitor the progress of the DBE program, the recipient is required to submit quarterly reports based on a recordkeeping system (49 CFR section 26.11).

N. Special Tests and Provisions

1. Environmental Review

Compliance Requirement - The National Environmental Policy Act (NEPA) (42 USC 4321 *et seq.*) and the FTA implementing rule (23 CFR part 771) require that the environmental effects of proposed mass transportation projects be documented and that environmental protection be considered before a decision is made to proceed with a project. Additionally, if there is no feasible or prudent alternative to avoid the effects, all reasonable steps must be taken to minimize adverse environmental effects, in accordance with Section 4(f) of the Department of Transportation Act of 1966, as amended. It is the policy of FTA that, among other matters, measures necessary to mitigate adverse impacts be incorporated into any proposed transportation improvement (49 USC 303).

Environmental mitigation measures are described in NEPA environmental documents, when required. For projects requiring an Environmental Impact Statement (EIS), mitigation measures are summarized in a Record of Decision. For projects requiring an Environmental Assessment, mitigation measures are summarized in a Finding of No Significant Impact (FONSI). For categorically excluded projects, any mitigation measures will be documented in the FTA approval memorandum for the project. In all cases, environmental mitigation measures should be referenced in the construction grant agreement with the recipient (23 CFR part 771).

Audit Objective - Determine whether environmental mitigation measures associated with FTA assisted construction were implemented as referenced in the construction grant agreement.

Suggested Audit Procedures

- a. Identify any FTA assistance provided for construction and review copies of the grant agreement and EIS or FONSI to identify mitigation measures specified.
- b. For sample of mitigation measures, compare the status of implementation with the commitments made in the environmental documents or grant agreement.

2. Charter Service

Compliance Requirement - As part of the annual certifications and assurances required by the FTA, a recipient must execute an agreement with the FTA which provides that neither the recipient nor any of its subrecipients will provide charter service that uses equipment or facilities acquired with FTA funds, unless: (a) there are no willing and able private charter service operators; or (b) one or more of the exceptions listed in 49 CFR part 604 are met and the charter service is incidental to the provision of mass transportation. Charter service is defined as transportation, using buses or vans (funded in whole or in part by FTA), of a group of persons pursuant to a common purpose, under a single contract at a fixed charge for the vehicle or service, which has acquired the exclusive use of the vehicle or service to travel together under an itinerary either specified in advance or modified after leaving the place of origin. This definition includes the incidental use of FTA-funded equipment for the exclusive transportation of school students, personnel and equipment, and the housing of charter vehicles in FTA-funded facilities. Incidental charter service is defined as service which does not: (a) interfere with or detract from the provision of the mass transportation service for which the facilities or equipment were funded under the Act; or (b) shorten the mass transportation life of the equipment or facilities (49 CFR part 604).

Audit Objective - Determine whether the use in charter service of equipment and facilities acquired with FTA funds conformed to 49 CFR part 604.

Suggested Audit Procedures

- a. Ascertain if the recipient provides charter service with FTA-funded equipment by: (1) obtaining written representation from the recipient and (2) reviewing revenue accounts for indications of charter bus revenue statements.
- b. Review the recipient's policies and procedures for charter, rental, or lease of its transit equipment.

- c. Test transactions which meet the definition of charter service and ascertain if:
- (1) FTA-assisted equipment or facilities (e.g., parking lots and maintenance garages) were used;
 - (2) Documentation was available evidencing the absence of a willing and able private operator or an exception provided in 49 CFR part 604;
 - (3) Documentation was available evidencing a charter fee that recovers the entire operating and capital costs of equipment used; and
 - (4) Inventory records were adjusted to extend the useful life of the FTA subsidized transit equipment by the amount of charter service.

3. School Bus Operation

Compliance Requirement - As part of the annual certifications and assurances required by FTA, a recipient must enter into an agreement with the FTA Administrator stating that the recipient will not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators, unless it demonstrates to the FTA Administrator any one of the exceptions listed in 49 CFR section 605.11 and the Administrator concurs. However, all recipients can operate "Tripper Service," which is defined as regularly scheduled mass transportation service that is open to the public, and designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems. Buses used in "Tripper Service" are required to be clearly marked as open to the public and should not carry designations such as "school bus" or "school special" (49 CFR part 605).

Audit Objective - Determine whether school bus service provided with FTA funded equipment was approved by FTA or that FTA-assisted equipment and facilities used to accommodate students conformed to the definition of "Tripper Service."

Suggested Audit Procedures

- a. Ascertain if the recipient operates any transit service exclusively for school children through: (1) a review of bus schedules, published fares, and service contracts; and (2) discussions with recipient officials.
- b. Ascertain if FTA-funded equipment (e.g., buses or vans) or facilities (e.g., bus maintenance garages) were used to provide school service by reviewing inventory records, maintenance logs, parking sites, names on bus and van destination signs, school facilities, or by performing other appropriate procedures.

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- c. If exclusive school bus service is identified:
- (1) Review documentation that the service was approved by the FTA, or
 - (2) Through a review bus schedules and published fares during school season and inquiries of recipient officials ascertain if the service conformed to the definition of "Tripper Service."

DEPARTMENT OF TRANSPORTATION

CFDA 20.600	STATE AND COMMUNITY HIGHWAY SAFETY
CFDA 20.601	ALCOHOL TRAFFIC SAFETY AND DRUNK DRIVING PREVENTION INCENTIVE GRANTS
CFDA 20.602	OCCUPANT PROTECTION
CFDA 20.603	FEDERAL HIGHWAY SAFETY DATA IMPROVEMENTS INCENTIVE GRANTS
CFDA 20.604	SAFETY INCENTIVE GRANTS FOR USE OF SEATBELTS
CFDA 20.605	SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS

I. PROGRAM OBJECTIVES

The objective of the State and Community Highway Safety Program is to provide a coordinated national highway safety program to reduce traffic accidents, deaths, injuries, and property damage.

II. PROGRAM PROCEDURES

Funds are provided to the States, following submission of their highway safety plans, in accordance with a predefined formula and incentive grants. All funding is administered as one combined program.

Source of Governing Requirements

This program is authorized under 23 USC Chapter 4 (Highway Safety). Implementing regulations are 23 CFR parts 1200, 1225, 1240, 1250, 1252, 1313, 1335, and 1345.

Availability of Other Program Information

The National Highway Traffic Safety Administration maintains a Website that provides program laws, regulations, and other general information (www.nhtsa.dot.gov).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Funds must be expended as specified in the grantee's highway safety plan. Certain specific costs which will not be approved or that require prior approval have been identified in Highway Safety Grant Funding Policy for the National Highway Traffic

Safety Administration (NHTSA)/ Federal Highway Administration (FHWA) Field-Administered Grants and are listed below (23 CFR section 1200.20).

1. The following costs are allowable or allowable with specific conditions:
 - a. Equipment - Major equipment (tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5000 or more per unit) purchases for new and replacement equipment must be pre-approved.
 - b. Installation - The purchase and installation of regulatory and warning signs and supports and field reference markers are allowable for roads off the Federal aid system.
 - c. Travel - Travel for out-of-state individuals benefitting the host State's highway safety program is allowable.
 - d. Training - The cost of training personnel and the development of new training curricula and materials are allowable. However, training costs for Federal employees, with the exception of Department of the Interior personnel assigned Section 402 responsibility, are unallowable.
 - e. Program Administration - The costs for consultant services, promotional activities, alcoholic beverages to support police "sting" operations, and meetings and conferences are allowable.
 - f. Public Communications - Advertising space.
2. The following costs are unallowable:
 - a. Facilities and Construction: highway construction, maintenance or design, construction or reconstruction of permanent facilities, highway safety appurtenances, office furnishings and fixtures, and land.
 - b. Equipment: truck scales, traffic signal preemption systems.
 - c. Training: individual's salary, and training employees of Federal agencies, excepted as noted above.
 - d. Program Administration: research costs, expenses to defray activities of Federal agencies, and commercial drivers' compliance requirements.

G. Matching, Level of Effort, Earmarking**1. Matching**

- a. *State and Community Highway Safety* (CFDA 20.600 and CFDA 20.604) - The State shall pay at least 20 percent, or the applicable sliding scale rate, as stated in the grant award, of the total cost of the program. The State shall pay at least 50 percent of the costs for planning and administration (23 USC 120(b) and 402(d); 23 CFR section 1252.4).
- b. *Special Incentive Programs* (CFDA 20.601, 20.602, and 20.603) - The Highway Safety Act requires States qualifying under Section 410 (CFDA 20.601) Alcohol Incentive, Section 405 (CFDA 20.602) Occupant Protection Incentive, and Section 411 (CFDA 20.603) Highway Safety Data Improvements; to match Federal funds at 25 percent the first and second years, 50 percent the third and fourth years, and 75 percent the fifth and sixth years (23 USC 405, 410, and 411; 23 CFR sections 1313.4(b), 1335.10, and 1345.4(a)).
- c. *Special Incentive Program* (CFDA 20.605) - Grants under Section 163, Safety Incentives to Prevent Operation of Motor Vehicles by Intoxicated Individuals, are 100 percent Federally funded (23 USC 163 and 23 CFR section 1225.4(b)(3)).
- d. Additional matching requirements may be specified in the grantee's highway safety plan to limit the maximum Federal share of an ambulance, helicopter, or aircraft to 25 percent.

2. Level of Effort - Not Applicable**3. Earmarking***State and Community Highway Safety (CFDA 20.600)*

- a. At least 40 percent of Federal funds apportioned to a State under CFDA 20.600 for any fiscal year shall be expended by or for the political subdivisions of the State in carrying out local highway safety programs (23 CFR section 1250, 23 USC 402(b)(1)(C)).
- b. The costs for planning and administration under CFDA 20.600 shall not exceed 10 percent of the funds received by the State (23 CFR section 1252.4).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. HS-217, *Highway Safety Plan Cost Summary (OMB No. 2127-0003)*
- f. *Federal-Aid Reimbursement Voucher (OMB No. 2127-0003)*

2. Performance Reporting - Not Applicable**3. Special Reporting - Not Applicable**

DEPARTMENT OF THE TREASURY**CFDA 21.020 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM****I. PROGRAM OBJECTIVES**

The Community Development Financial Institutions (CDFI) Program is administered by the Community Development Financial Institutions Fund (CDFI Fund), a wholly owned government corporation within the Department of the Treasury. The CDFI Program is designed to facilitate the creation of a national network of financial institutions dedicated to community development by providing financial and technical assistance to CDFIs. Assistance under the CDFI Program is intended to enhance the ability of CDFIs to make loans and investments and provide services to distressed communities and individuals who have been unable to take full advantage of the financial services industry (12 CFR sections 1805.100 and 1805.101).

II. PROGRAM PROCEDURES

The CDFI Program provides CDFIs with: (1) financial assistance in the form of grants, loans, equity investments, deposits and credit union shares; and/or (2) technical assistance in the form of grants. Financial and technical assistance are provided through a competitive nationwide evaluation and selection process. After selection, each CDFI Program award recipient will enter into an assistance agreement, which will include performance goals and other terms and conditions.

In order to be eligible to apply for assistance, entities must meet or propose to meet specific CDFI eligibility criteria (12 CFR sections 1805.200 and 1805.201(b)). CDFIs include, among others, entities such as community development banks, community development credit unions, depository institution holding companies, non-profit loan funds, micro-enterprise loan funds and community development venture capital funds.

Source of Governing Requirements

The CDFI Program is authorized by the Community Development Banking and Financial Institutions Act of 1994 (Pub. L. No. 103-325, 12 USC 4701, *et seq.*). The CDFI Program implementing regulations are codified at 12 CFR part 1805 and can be found on the Internet at <http://www.treas.gov/cdfi>.

Availability of Other Information

Additional information on the CDFI Program is available on the CDFI Fund's website at www.treas.gov/cdfi. If there are specific questions regarding the CDFI Program, the CDFI Fund may be contacted via telephone at (202) 622-8662, by e-mail at cdfihelp@cdfi.treas.gov, or by facsimile at (202) 622-7754.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Financial Assistance* - The CDFI Fund may provide financial assistance intended to strengthen the capital position and enhance the ability of a CDFI Program award recipient to provide financial products and financial services. However, the CDFI Fund does not require CDFI Program award recipients to account for the actual costs incurred using financial assistance amounts (12 CFR sections 1805.300 and 1805.301).
2. *Technical Assistance* - The CDFI Fund may provide technical assistance grants to build the capacity of a CDFI or an entity that proposes to become a CDFI. Such technical assistance may include training for management and other personnel; development of programs, products, and services; improving financial management and internal operations; enhancing a CDFI's community impact; or other activities deemed appropriate by the CDFI Fund. The CDFI Fund will prescribe the specific authorized uses of such technical assistance amounts for each CDFI award recipient in a schedule to the assistance agreement. Such schedules also may be supplemented by letter agreements (12 CFR section 1805.303).
3. *Community Partnerships* - Assistance provided upon approval of an application involving a community partnership shall only be distributed to the CDFI Program award recipient and shall not be used to fund any activities carried out by a community partner or an affiliate of a community partner (12 CFR section 1805.302(c)).

B. Allowable Costs/Cost Principles

The provisions of OMB Circular A-122 apply to non-profit CDFI award recipients, but only for costs associated with technical assistance amounts, because the CDFI Fund does not require CDFI Program award recipients to account for actual costs incurred using financial assistance amounts.

The assistance agreement will set forth the specific types (e.g., general purpose equipment, professional services, training and travel costs associated with such training, etc.) of direct costs that each CDFI Program award recipient may incur using technical assistance amounts. The CDFI Program award recipients have generally requested such types of direct costs in their applications for technical assistance.

E. Eligibility

1. **Eligibility for Individuals** - Not Applicable
2. **Eligibility for Groups of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients**

A CDFI Program award recipient may not distribute assistance to an affiliate without the consent of the CDFI Fund (12 CFR section 1805.302(b)).

G. Matching, Level of Effort, Earmarking**1. Matching**

- a. *Financial Assistance* - Each CDFI Program award recipient must match financial assistance provided by the CDFI Fund under the CDFI Program with an amount that is at least comparable in: (1) form to the type of financial assistance provided by the CDFI Fund; and (2) value, on a dollar-for-dollar basis, to the financial assistance provided by the CDFI Fund. Such match must come from sources other than the Federal Government, and must consist of non-Federal Government funds. For example, funds provided to a CDFI pursuant to the Housing and Community Development Act of 1974 are generally considered to be Federal Government funds, and may not be used to meet the match requirements. Funds used to satisfy a legal requirement for obtaining funds under a Federal grant or award program may not be used as a match for financial assistance under the CDFI Program. The applicable time frame for raising the match is set forth in the Notice of Funds Availability (NOFA) published in the *Federal Register* for each funding round. The most recent NOFAs can be retrieved from the Internet at <http://www.treas.gov/cdfi> (12 CFR sections 1805.500 through 1805.504).

The amount of financial assistance disbursed by the CDFI Fund to a CDFI Program award recipient will not exceed the amount of match that the CDFI has in hand. As a result, the CDFI Fund may make multiple disbursements of financial assistance as the CDFI Program award recipient receives the requisite match funds.

- b. *Technical Assistance* - There is no match requirement for technical assistance amounts under the CDFI Program (12 CFR section 1805.303(d)).
2. **Level of Effort** - Not Applicable
3. **Earmarking** - Not Applicable

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable to Technical Assistance
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *Semi-Annual Report (OMB No. 1559-0006)* - This report is due from each CDFI award recipient within 60 days after the end of each semi-annual period, or within some other period as may be agreed to in the assistance agreement (12 CFR section 1805.803(e)(2)).

Key Line Items - The following line items contain critical information.

1. Item 1 - Quantitative information relating to financial and managerial soundness covenants, except that the auditor is not expected to test the analysis of factors contributing to any failure (if applicable) to meet any financial soundness covenants.
- b. *Annual Report (OMB No. 1559-0006)* - This report is due from each CDFI award recipient within 60 days after the end of the CDFI award recipient's fiscal year, or by such alternative deadline as may be agreed to in the assistance agreement (12 CFR section 1805.803(e)(3)).

Key Line Items - The following line items contain critical information.

1. Item 1 - Quantitative information relating to Performance Goals.

IV. OTHER INFORMATION

As described under "II. Program Procedures," the CDFI program provides (1) financial assistance and (2) technical assistance grants. Financial assistance in the form of grants, loans, equity investments, deposits, and credit union shares is considered Federal awards expended for determining whether the audit threshold is met and determining Type A programs upon receipt of the funds by the non-Federal entity. Technical assistance grants are considered Federal awards expended for determining whether the audit threshold is met and determining Type A programs when the expenditure/expense transactions associated with the grant occur.

NATIONAL ENDOWMENT FOR THE HUMANITIES

CFDA 45.129 **PROMOTION OF THE HUMANITIES - FEDERAL/STATE PARTNERSHIP**

I. PROGRAM OBJECTIVES

To provide funding through grants to humanities councils in each State (including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands). The 56 State humanities councils support, on a competitive basis, locally-initiated humanities programs. State councils also design and conduct humanities projects.

II. PROGRAM PROCEDURES

The National Endowment for the Humanities (NEH) makes grants to each of the 56 State humanities councils upon submission and approval of the *Federal/State Partnership General Support Grants Application Cover Sheet and Compliance Plan (OMB No. 3136-0134)*. Generally, the grant is for a five year period with annual awards in the first three years. The grants provide administrative and program support. After receipt of the grant, the State humanities council is required to submit a *Summary Budget for the Funding Period (OMB No. 3136-0134)*. The State humanities councils may subgrant funds, referred to as "regrants" in this program, to local non-profit organizations, institutions, groups, and individuals.

Source of Governing Requirements

The laws for this program are found in 20 USC 956.

Availability of Other Program Information

NEH maintains a web site on the Internet (www.neh.gov) which provides general information about NEH programs. A handbook titled *Matching Guidelines for General Support Grants to State Humanities Councils* can be obtained by e-mail request to grantmanagement@neh.gov or by calling 202-606-8617 or 8494.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Funds may be used to initiate and support programs and research which have substantial scholarly and cultural significance; to insure that the benefit of programs will also be available to citizens where such programs would otherwise be unavailable due to geographic or economic reasons; and to foster education in and public understanding and appreciation of the humanities. (20 USC 956(c)(4), 956(c)(7), and 956(c)(9)).

The state humanities councils may regrant funds to organizations (including institutions of higher education and units of State and local governments), groups or persons that form an association to carry out a project, not-for-profit groups (do not have to be incorporated) or individuals. Regrants may not be made to for-profit organizations (20 USC 956(c)(2), 956(h)(1), and 956(l)).

Federal regrant funds must be expended according to the *Summary Budget for the Funding Period* (OMB No. 3136-0134) and any amendments as approved by NEH. Transfers can be made from other categories to regrants, but written permission from the NEH is required to transfer funds from the regrant category.

G. Matching, Level of Effort, Earmarking

1. Matching

Under this program, State humanities councils receive two types of funding from the NEH: Outright Funds and offers to provide Matching Funds. The amount of each type of funding is identified in the grant award documents.

Councils must match Outright Funds on a dollar for dollar basis. Matching for Outright Funds may take the form of cash contributions to the councils from any source (including funds from other Federal agencies), program income the councils have earned, unreimbursed allowable costs that a grantee incurs in carrying out a council-funded project, or in-kind contributions made by third parties (20 USC 956(f)(1)).

Matching Funds must also be matched dollar for dollar. The NEH releases Matching Funds to a council only upon certification that the council or its grantee have raised the required amount of eligible third-party gifts per the *Matching Funds Certification Letter* (OMB No. 3136-0134) and accompanying instructions (20 USC 960(a)(2)(B)).

For those councils covered by the Economic Development of the Territories Act (the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands) the matching requirements do not apply to the first \$200,000 in Outright Funds (48 USC 1469a(d)).

2. Level of Effort - Not Applicable

3. Earmarking - Not Applicable

L. Reporting

1. Financial Reporting

- a. SF-269A, *Financial Status Report* (Short Form) - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting

Matching Funds Certification Letter (OMB No. 3136-0134) - This letter is used to describe and certify the qualification of third-party gifts for the Matching Funds.

ENVIRONMENTAL PROTECTION AGENCY

CFDA 66.458 CAPITALIZATION GRANTS FOR STATE REVOLVING FUNDS

I. PROGRAM OBJECTIVES

Capitalization grants are awarded to States to create and maintain Clean Water State Revolving Funds (CWSRFs) to: (1) enable States to encourage construction of wastewater treatment facilities to meet the enforceable requirements of the Clean Water Act (Act); (2) increase the emphasis on nonpoint source pollution control and protection of estuaries; and (3) establish permanent financing institutions in each State to provide continuing sources of financing to maintain water quality. The CWSRF provides loans and other types of financial assistance (but not grants) to qualified communities and local agencies. The CWSRF is a permanent revolving fund to provide loans and other assistance (40 CFR section 35.3115).

II. PROGRAM PROCEDURES

The CWSRF program is established in each State by capitalization grants from the Environmental Protection Agency (EPA). Since the enabling legislation was enacted in 1987, capitalization grants have been available to States in most years. EPA implements the CWSRF in a manner that preserves a high degree of flexibility for States in operating their revolving funds in accordance with each State's unique needs and circumstances.

States are required to provide an amount equal to 20 percent of the capitalization grant as State matching funds in order to receive a grant. Capitalization grant applications shall include: (1) an Intended Use Plan (IUP), which lists proposed projects eligible for financing from CWSRF loans; (2) an identification of the source of the matching amount; (3) a proposed payment schedule; and, (4) certain certifications and demonstrations. States may transfer an amount up to 33 percent of its Drinking Water State Revolving Fund (DWSRF) (CFDA 66.468) capitalization grant to the CWSRF or an equivalent amount from the CWSRF to the DWSRF program.

The State shall provide an annual report to the EPA on its CWSRF program.

Source of Governing Requirements

The CWSRF program is authorized under Title VI of the Clean Water Act (33 USC 1381 et seq) and the implementing regulations are found in 40 CFR part 35, subpart K. Guidance on cross-collateralization are found in the policy statement titled *Transfer and Cross-Collateralization of Clean Water Revolving Funds and Drinking Water State Revolving Funds* published in the October 13, 2000, *Federal Register* (65 FR 60940).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

The audit focus is on a State's CWSRF program, rather than individual capitalization grants awarded to States by EPA.

A. Activities Allowed or Unallowed

1. The CWSRF may provide financial assistance: (1) to municipalities, inter-municipal, interstate, or State agencies for the construction of publicly owned treatment works, as defined in section 212 of the Act that are on the State's project priority list; (2) for implementing nonpoint source management programs under section 319 of the Act; and (3) for developing and implementing estuary management plans under section 320 of the Act (33 USC 1383(c)).

The allowable types of financial assistance are (33 USC 1383(d)):

- a. Making loans (not grants) for eligible projects;
 - b. Buying or refinancing of debt obligations of municipal, intermunicipal, and interstate agencies incurred after March 7, 1985;
 - c. Guaranteeing or purchasing insurance for local debt obligations;
 - d. Using as a source of revenue or security for CWSRF debt obligations (providing that the net proceeds of the sale of such bonds are deposited in the CWSRF);
 - e. Guaranteeing loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies.
2. CWSRF funds may be used by States for the reasonable costs of administering and managing the CWSRF (33 USC 1383(d)(7)).

C. Cash Management

The State may draw cash from the EPA through the Automated Clearinghouse (ACH) or the Automated Standard Application for Payments (ASAP) system for:

1. *Loans* - when the CWSRF receives a request from a loan recipient, based on incurred costs, including pre-building and building costs.
2. *Refinance or Purchase of Municipal Debt* - generally, when at a rate no greater than equal amounts over the maximum number of quarters that payments can be made, and up to the portion of the ACH committed to the refinancing or purchase of the local debt.
3. *Purchase of Insurance* - when insurance premiums are due.

4. *Guarantees and Security for Bonds* - immediately, in the event of imminent default in debt service payments on the guaranteed/secured debt; otherwise, up to an amount dedicated for the guarantee or security based on incurred construction costs.
5. *Administrative Expenses* - cash can be drawn based on a schedule that coincides with the rate at which administrative expenses will be incurred (40 CFR section 35.3160).

G. Matching, Level of Effort, Earmarking

1. Matching Requirement

States are required to deposit into the CWSRF from State monies, an amount equal to 20 percent of each grant payment. If the State provides a match in excess of the required amount, the excess balance may be banked toward subsequent match requirements. States generally report the total amount of their matching for a capitalization grant in an annual CWSRF report to EPA. The match is required to be made on or before the time that EPA funds are drawn (40 CFR section 35.3135(b)).

2. Level of Effort - Not Applicable

3. Earmarking

The maximum amount allowable for administering and managing the CWSRF is 4 percent of the cumulative amount of capitalization grant awards received. When the administrative expense of the CWSRF exceeds 4 percent, the excess must be paid from sources outside the CWSRF (40 CFR section 35.3120(g)).

H. Period of Availability of Funds

"Grant Payments" from a capitalization grant shall begin in the quarter in which the grant is awarded, and end no later than eight quarters after the grant is awarded, not to exceed 12 quarters from the date of allotment of grant funds to the States (40 CFR section 35.3155(c)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable

d. SF-272, *Federal Cash Transactions Report* - Applicable

2. **Performance Reporting** - Not Applicable

3. **Special Reporting**

The State must provide an Annual Report to EPA according to the schedule in the grant agreement (*OMB No. 2040-0118*) (40 CFR 35.3165(a) and (b)).

N. **Special Tests and Provisions**

1. **Environmental Review requirements**

Compliance Requirement - The State must conduct reviews of the potential environmental impacts of all Section 212 construction projects receiving assistance from the CWSRF, including nonpoint source pollution control and estuary protection projects that are also Section 212 projects (40 CFR section 35.3140).

Audit Objective - Determine whether the State is performing environmental reviews before construction proceeds.

Suggested Audit Procedures

- a. Inquire of CWSRF management about the environmental review procedures in place.
- b. Select a sample of projects that began during the year to ascertain that the decisions were rendered prior to the project proceeding and were approved in the State environmental review process.

2. **Binding Commitments**

Compliance Requirement - A “binding commitment” is a legal obligation by a State to a local recipient that defines the terms for assistance under the CWSRF. Cumulative binding commitments must equal at least 120 percent of cumulative capitalization grant payments received one year earlier. Binding commitments requirements are intended to help assure that the State utilizes grant funds in a timely manner. EPA may withhold future payments and require adjustments to the payment schedules before releasing further payments if the State does not meet the binding commitment requirement. States generally report the total amount of their binding commitments in an annual CWSRF report to EPA (40 CFR sections 35.3135(c) and 35.3165(a)).

Audit Objective - Determine whether States have complied with the requirement to make binding commitments equal to or greater than 120 percent of the amount of the capitalization grants.

Suggested Audit Procedure

- a. Review binding commitments in conjunction with the EPA payment schedules to ascertain if the State entered into cumulative binding commitments in an amount at least equal to 120 percent of the cumulative grant payments received 1 year earlier (i.e., cumulative binding commitments in the current year should be equal to or greater than 120 percent of cumulative grant payments made through the previous year).
- b. Test a sample of binding commitments reported by the State to verify that the amount and date agree with supporting documentation.

3. Fund Establishment, Loan Repayments, and Fund Earnings

Compliance Requirements - The State shall establish a separate account or series of accounts that is dedicated solely to providing loans and other forms of financial assistance. All loan repayments (including principal and interest), interest earnings on investments, capitalization grants, State match, and transfers from the DWSRF must be credited directly to the CWSRF. Repayment of loans shall begin within one year after project completion, and loans shall be fully amortized over not more than 20 years after project completion (40 CFR sections 35.3110(b) and 35.3120(a); the policy statement titled *Transfer and Cross-Collateralization of Clean Water Revolving Funds and Drinking Water State Revolving Funds* published in the October 13, 2000, *Federal Register* (65 FR 60940)).

Audit Objectives - Determine whether the State has a separate account or series of accounts for the CWSRF. Determine whether principal and interest payments, interest earnings on investments, capitalization grants, State match, and transfers from the DWSRF, were properly credited to the CWSRF.

Suggested Audit Procedures

- a. Ascertain if the CWSRF is a separate account, or series of accounts, dedicated solely to purposes of the program.
- b. Test a sample of projects funded by the CWSRF and for which repayments were due during the year to determine that principal and interest payments were properly credited to the CWSRF accounts.
- c. Test a sample of loan agreements and other project records to ascertain if the repayments began within one year of project completion and the loans are scheduled for full amortization within 20 years.
- d. Obtain a list of investments made during the year and ascertain if earnings on investments were properly recorded in the CWSRF.

4. CWSRF as Security for Bonds

Compliance Requirement - When funds from the CWSRF are used as security or as a source of revenue for the payment of principal and interest on revenue or general obligation bonds issued by the State, the net proceeds (i.e., funds raised from the sale of bonds less issuance costs) of the sale of such bonds must be deposited in the CWSRF (40 CFR section 35.3120(d)). This requirement includes the situation where the State employs the cross-collateralization process permitted by the CWSRF program. Cross-collateralization allows for certain assets of both the DWSRF and the CWSRF programs to be pledged as collateral for a single or joint bond issue in proportion to the assets offered as collateral. Proportionality may be achieved at different levels of security: (1) at reserve level; (2) at loan repayment level; or (3) using an alternative structure approved by EPA (40 CFR section 35.3530(d) and the policy statement titled *Transfer and Cross-Collateralization of Clean Water Revolving Funds and Drinking Water State Revolving Funds* published in the October 13, 2000, *Federal Register* (65 FR 60940)).

Audit Objective - Determine whether the State placed the net proceeds from the sale of bonds guaranteed by the CWSRF into the CWSRF.

Suggested Audit Procedures

- a. Review bond documentation and trace amounts qualifying as net proceeds to accounts in the CWSRF.
- b. Ascertain that the net bond proceeds were deposited into the CWSRF.
- c. If the State has employed a cross-collateralization technique, ascertain that the net proceeds deposited into the CWSRF were proportionate to the assets offered as collateral.

IV. OTHER INFORMATION

Subrecipients - In years after the subrecipient has expended loan proceeds and completed construction, and the subrecipient's only ongoing financial activity of the program is the payment of principal and interest on outstanding balances, the prior loan balances at the subrecipient level are not considered to have continuing compliance requirements under OMB Circular A-133 section ___.205(d). Prior loans which do not have continuing compliance requirements other than to repay the loans are not considered Federal awards expended and therefore are not required to be audited under OMB Circular A-133.

ENVIRONMENTAL PROTECTION AGENCY**CFDA 66.468 CAPITALIZATION GRANTS FOR DRINKING WATER STATE REVOLVING FUND****I. PROGRAM OBJECTIVES**

Capitalization grants are awarded to States to create and maintain Drinking Water State Revolving Funds (DWSRF) programs. States can use capitalization grant funds to establish a revolving loan fund (DWSRF) to assist public water systems finance the costs of infrastructure needed to achieve or maintain compliance with Safe Drinking Water Act (SDWA) requirements and protect the public health objectives of the Act. The DWSRF can be used to provide loans and other types of financial assistance for qualified communities, local agencies, and private entities. States may also set aside certain percentages of their capitalization grant or allotment for various activities that promote source water protection and enhanced water systems management.

II. PROGRAM PROCEDURES

The DWSRF program is established in each State by capitalization grants from the Environmental Protection Agency (EPA) and State match equaling 20 percent of the EPA capitalization grants. EPA implements the DWSRF program in a manner that preserves flexibility for States in operating their program in accordance with their unique needs and circumstances. States have the flexibility to set aside up to 31 percent of their capitalization grants for other related activities. States may also transfer an amount up to 33 percent of its DWSRF capitalization grant to the Clean Water State Revolving Fund (CWSRF) (CFDA 66.458) or an equivalent amount from the CWSRF to the DWSRF program. A State may transfer capitalization grant dollars, State match, investment earnings, or principal and interest repayments.

Capitalization grant agreements include: (1) an application; (2) an Intended Use Plan (IUP), which describes how the State intends to use funds made available to it, including a list of proposed projects eligible for financing and a description of the financial status of the program; (3) a proposed payment schedule; (4) certain certifications and demonstrations which can be included in an optional operating agreement; and (5) workplans describing use of set-aside activities.

The State must annually provide an IUP which describes how the State will use available DWSRF program funds for the year to meet the objectives of the SDWA and further the goal of protecting public health. The IUP explains how all of the funds available to the DWSRF program (including bond proceeds, interest earnings, loan repayments, Federal capitalization grants, State match, etc.) will be expended (DWSRF Guidelines I.B).

The State also must provide a Biennial Report to the EPA containing detailed information on how the State met the goals and objectives of the previous two fiscal years as stated in its IUP and grant agreement. Such report must cover the State's entire DWSRF program, including its set-aside activities. EPA conducts Annual Review of State programs to assess the success of each program, including activities identified in the IUP and Biennial Report.

Source of Governing Requirements

This program is authorized under Section 1452 of the Public Health Service Act (Title XIV), commonly known as the SDWA (42 USC 300j-12). The implementing regulations for the program can be found at 40 CFR part 35, subpart L.

Availability of Other Program Information

Other general information about the program is available on the EPA Drinking Water State Revolving Fund home page (<http://www.epa.gov/safewater/dwsrf.html>).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

The audit focus is on a State's DWSRF program, rather than individual capitalization grants awarded to States by EPA.

A. Activities Allowed or Unallowed

1. The DWSRF program may provide the following financial assistance to publicly- or privately-owned community water systems and non-profit non-community water systems for eligible drinking water infrastructure projects (40 CFR sections 35.3520 and 35.3525):
 - a. Making loans for eligible projects (40 CFR section 35.3520(b)).
 - b. Purchasing or refinancing existing debt obligations of municipal, intermunicipal and interstate agencies entered into on or after July 1, 1993.
 - c. Guarantee of or purchasing insurance for local debt obligations.
 - d. Providing a source of revenue or security for DWSRF debt obligations, provided that the net proceeds of the sale of such debt obligations are deposited in the DWSRF.
2. A State may set aside funds for the following designated set-aside activities (40 CFR section 35.3535):
 - a. Administrative expenses (including technical assistance).
 - b. Technical assistance to small water systems that regularly serve 10,000 or fewer persons (40 CFR 35.3505).

- c. State program management.
 - d. Local assistance and other state programs.
3. The DWSRF may not provide assistance for (40 CFR sections 35.3520(d) through (f)):
- a. Dams or reservoirs, water rights, laboratory fees for monitoring, system operation and maintenance, or fire protection projects.
 - b. Expansion projects pursued solely in anticipation of future growth.

C. Cash Management

The State may draw cash through the Automated Clearing House (ACH) or the Automated Standard Application for Payments (ASAP) system for (40 CFR sections 35.3560 and 35.3565):

1. *Loans* - when the DWSRF receives a request from a loan recipient, based on incurred costs, including pre-building and building costs.
2. *Refinance or Purchase of Municipal Debt* - generally, at a rate not greater than equal amounts over the maximum number of quarters that payments can be made, and up to the amount committed to the refinancing or purchase of the local debt. A State may immediately draw cash for up to the greater of \$2 million or 5 percent of each fiscal year's capitalization grant to refinance costs.
3. *Purchase of Insurance* - when insurance premiums are due.
4. *Guarantees and Security for Bonds* - immediately, in the event of imminent default in debt service payments on the guaranteed/secured debt; otherwise, up to the amount dedicated for the guarantee or security based on actual construction cost.
5. *Set-Asides* - generally, on an incurred cost basis after workplans have been approved by EPA (40 CFR section 35.3560(e)).

G. Matching, Level of Effort, Earmarking

1. Matching Requirement

- a. States are required to deposit into the DWSRF from State monies an amount equal to 20 percent of each grant payment. The match is required to be made on or before the time that EPA funds are drawn. When a letter of credit (LOC) mechanism or similar financial arrangement is used for the State match, payments to the LOC account must be made proportionally on the same schedule as payments for the capitalization grant. Monies

from this State match LOC must be drawn into the DWSRF as monies are drawn on the Federal automated clearinghouse account. A State may issue general obligation or revenue bonds to derive the State match. If the State provides a match in excess of the required amount, the excess balance may be banked toward subsequent match requirements (40 CFR section 35.3550(g)).

- b. In the case of the State Program Management set-aside, the State must also provide an amount equal to 100 percent of said payments. A State is authorized to use the amount of State funds expended on its Public Water System Supervision (PWSS) program in fiscal year 1993 (including PWSS match) as a credit toward meeting its match requirement. The value of this credit can be up to, but not greater than, 50 percent of the amount of match that is required. A State must provide the additional funds necessary to meet the remainder of the match requirement. The sources of these additional funds can be State monies (excluding PWSS match) or documentation of in-kind services (40 CFR sections 35.3535(d)(2) and 35.3550(h)).
- c. For grant payments to the State from funds appropriated in Federal fiscal year 1997, the State may defer deposit of the matching amount until no later than September 30, 1999.

2. Level of Effort - Not Applicable

3. Earmarking

Up to 31 percent of the allotment can be earmarked for set-aside activities as follows:

- a. *Administrative Expenses* - Not to exceed 4 percent of the cumulative allotment (40 CFR section 35.3535(b)).
- b. *Technical Assistance to Small Systems* - Not to exceed 2 percent of the cumulative allotment (40 CFR section 35.3535(c)).
- c. *State Program Management* - Not to exceed 10 percent of the cumulative allotment (40 CFR section 35.3535(d)).
- d. *Local Assistance and Other State Programs* - Not to exceed 15 percent of the capitalization grant and no more than 10 percent is used on any one of the defined activities (40 CFR section 35.3535(e)).

A State cannot use more than 30 percent of any particular fiscal year's capitalization grant to provide subsidies in the form of principal forgiveness or negative interest rate loans to communities meeting the State's definition of

disadvantaged, or communities the State expects to become disadvantaged as a result of the project (40 CFR section 35.3525(b)).

H. Period of Availability of Funds

Grant payments from a capitalization grant, which increase the ceiling of funds from which a State may draw cash for eligible costs, shall begin no earlier than the quarter in which the grant is awarded, and generally end no later than eight quarters after the grant is awarded, not to exceed 12 quarters from the date of allotment of grant funds to the States. State must obligate funds for eligible projects within one year of accepting a payment. States disburse, or liquidate, grant funds for projects in accordance with construction schedules. Funds are disbursed for set-aside activities in accordance with workplan commitments (40 CFR sections 35.3550(e) and 35.3560).

J. Program Income

The State may charge fees to process, manage, or review an application for Federal assistance. Such fees may be collected in an account outside the DWSRF and used to supplement administrative expenses and for other allowable purposes for which a grant is awarded under 42 USC 300j-12. However, if these fees are deposited into the DWSRF, they are subject to the uses of the DWSRF which does not include the use of funds for administrative purposes (40 CFR section 35.3530(b)).

L. Reporting

1. Financial Reporting

- a. SF-269A, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Environmental Review Requirements

Compliance Requirement - The State must conduct reviews of the potential environmental impacts of all infrastructure projects and those set-aside activities that impact the quality of the human environment receiving assistance from the DWSRF

program. A State Environmental Review Process (SERP) that is equivalent to a National Environmental Policy Act (NEPA) review must be performed on projects and activities with cumulative costs equal to the annual capitalization grant. Other projects must be reviewed under an alternative SERP (40 CFR section 35.3580).

Audit Objective - Determine whether the State performed environmental reviews before projects and activities proceeded.

Suggested Audit Procedures

- a. Inquire of DWSRF management about the environmental review procedures in place.
- b. Select a sample of projects that began during the year to ascertain that decisions were rendered prior to the project proceeding and were approved in the SERP.

2. Binding Commitments

Compliance Requirement - A "binding commitment" is a legal obligation by a State to a local recipient that defines the terms for assistance under the DWSRF program. Cumulative binding commitments must be made in an amount equal to the amount of each grant payment plus the required State match that is deposited into the DWSRF within one year after the receipt of each grant payment. Payments for set-asides are not included in the binding commitment calculation. Binding commitment requirements are intended to help assure that the State utilizes grant funds in a timely manner. A State may initiate an adjustment to payment schedules if the State believes that it will not meet the binding commitment requirement. States generally report the total amount of their binding commitments in the Biennial Report to EPA (40 CFR section 35.3550(e)).

Audit Objective - Determine whether the State complied with the requirements to make binding commitments in an amount equal to the amount of each grant payment plus the required State match deposited into the DWSRF within one year after the receipt of each grant payment.

Suggested Audit Procedure

- a. Review binding commitments in conjunction with the EPA payment schedules to ascertain if the State entered into binding commitments in an amount equal to the cumulative amount of grant payments plus the cumulative required State match deposited into the Fund, less cumulative set-aside funds, within one year after the receipt of each grant payment.
- b. Test a sample of binding commitments reported by the State to verify that the amount and date agree with supporting documentation.

3. Deposits to DWSRF

Compliance Requirements - The State shall establish a separate account, or series of accounts, that is dedicated solely to providing loans and other forms of financial assistance from the DWSRF. All loan repayments (including principal and interest) interest earnings on investments, capitalization grants (except that portion the State intends to use as set-asides), State match and transfers from the CWSRF must be credited directly to the DWSRF. A State must maintain separate and identifiable accounts for the portion of the capitalization grant to be used for set-aside activities (40 CFR sections 35.3550(f) and (g)).

Transfers between the DWSRF and CWSRF must be approved by the State Governor (40 CFR section 35.3530(c)). Repayment of loans shall begin within one year after project completion, and loans shall be fully amortized over not more than 20 years after project completion, with the exception that loans to qualified disadvantaged communities can be amortized over 30 years (40 CFR sections 35.3525(a) and (b)(3)).

Audit Objectives - Determine whether the State has a separate account or series of accounts for the DWSRF program. Determine whether principal and interest payments, interest earnings on investments, set-aside funds, applicable portions of capitalization grants, and State match were credited to the appropriate accounts.

Suggested Audit Procedures

- a. Ascertain if the DWSRF is a separate account, or series of accounts, dedicated solely to purposes of the program and that the set-aside funds are deposited into a separate accounts identified for the use of set-aside activities.
- b. Test a sample of projects funded by the DWSRF and for which repayments were due during the year to determine that principal and interest payments were properly credited directly to the DWSRF.
- c. Test a sample of loan agreements and other project records to ascertain if the repayments began within one year of project completion and the loans are scheduled for full amortization within 20 years, or 30 years for loans to disadvantaged communities.
- d. Obtain a list of investments made during the year and ascertain if earnings on investments were directly credited to the DWSRF account.
- e. Obtain a cash draw schedule from the EPA Regional office and ascertain if cash draws were directly credited to the DWSRF account and the appropriate State match was deposited.
- f. Ascertain if a transfer of funds between the DWSRF and CWSRF programs occurred and if the transfer was approved by the State Governor.

4. DWSRF as Security for Bonds

Compliance Requirement - When funds from the DWSRF are used as security or as a source of revenue for the payment of principal and interest on revenue or general obligation bonds issued by the State, the net proceeds (i.e., funds raised from the sale of bonds less issuance costs) of the sale of such bonds must be deposited in the DWSRF (40 CFR section 35.3525(e)). This requirement includes the situation where the State employs the cross-collateralization process permitted by the DWSRF program. Cross-collateralization allows for certain assets of both the DWSRF and the CWSRF programs to be pledged as collateral for a single or joint bond issue in proportion to the assets offered as collateral. Proportionality may be achieved at different levels of security: (1) at reserve level; (2) at loan repayment level; or (3) using an alternative structure approved by EPA (40 CFR section 35.3530(d)).

Audit Objective - Determine whether the State properly deposited and recorded the net proceeds from the sale of bonds guaranteed by the DWSRF into the DWSRF.

Suggested Audit Procedures

- a. Review bond documentation and trace amounts qualifying as net proceeds to the appropriate accounts in the DWSRF.
- b. Ascertain that the net bond proceeds were deposited into the DWSRF.
- c. If the State has employed a cross-collateralization technique, ascertain that the net proceeds deposited into the DWSRF were proportionate to the assets offered as collateral.

5. Repayment of Set-Aside Loans

Compliance Requirement - Assistance from the Local Assistance and Other State Programs set-aside for assistance for land acquisition or conservation easements for source water protection of a public water system or for implementation of voluntary, incentive-based source water quality protection measures for a community water system must be made in the form of a loan which must be repaid within 20 years after completion of the project. Principal and interest payments on these and other set-aside loans must be placed in the DWSRF or in a separate dedicated account or accounts for use of the same set-aside activity in accordance with 40 CFR section 35.3535(e)(2).

Audit Objective - Determine whether principal and interest payments on set-aside loans directly credited to the DWSRF or a separate account to be used for the same set-aside activity.

Suggested Audit Procedures

- . Test a sample of set-aside loan repayments to ascertain that they were credited to the DWSRF or in a separate dedicated account or accounts for loans made under the set-asides.

IV. OTHER INFORMATION

Subrecipients - In years after the subrecipient has expended loan proceeds and completed construction, and the subrecipient's only ongoing financial activity of the program is the payment of principal and interest on outstanding balances, the prior loan balances at the subrecipient level are not considered to have continuing compliance requirements under OMB Circular A-133 section ___.205(d). Prior loans which do not have continuing compliance requirements other than to repay the loans are not considered Federal awards expended and therefore are not required to be audited under OMB Circular A-133.

DEPARTMENT OF ENERGY**CFDA 81.042 WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS****I. PROGRAM OBJECTIVES**

The objective of the Weatherization Assistance for Low-Income Persons (WAP) program is to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total expenditures on energy, and improve their health and safety. WAP has a special interest in addressing these needs for low-income persons who are particularly vulnerable, such as the elderly, disabled persons and families with children.

II. PROGRAM PROCEDURES**Program Administration**

States may submit an application and plan to the Department of Energy (DOE). The submission describes the proposed weatherization projects and contains a budget, a production schedule of dwelling units to be weatherized with grant funds, a monitoring plan, a training and technical assistance plan, rental procedures, and a health and safety plan. Upon approval, States receive funds from DOE and may enter into subagreements with local administering agencies having approved plans. If a State does not submit an application or if the State plan is rejected, a local applicant may submit a plan to carry out weatherization projects.

Source of Governing Requirements

WAP is authorized under Title IV, Part A, of the Energy Conservation and Production Act (Act), as amended (10 USC 6851 through 6872). Implementing regulations are published at 10 CFR part 440.

Availability of Other Program Information

Program notices are available on the Internet at www.waptac.org/regulations_and_guidance1.htm.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Allowable activities include only:*
 - a. The cost of purchase and delivery of weatherization materials (10 CFR section 440.18(c)(1)). Funds may only be expended on weatherization materials listed in Appendix A of 10 CFR part 440 or as approved by DOE.
 - b. Labor costs in accordance with 10 CFR section 440.19.
 - c. Transportation of weatherization materials, tools, and equipment, and work crews to a storage site and/or to the site of weatherization work (10 CFR section 440.18(c)(3)).
 - d. Maintenance, operation, and insurance of vehicles used to transport weatherization materials (10 CFR section 440.18(c)(4)).
 - e. Maintenance of tools and equipment (10 CFR section 440.18(c)(5)).
 - f. Purchase or annual lease of tools, equipment and/or vehicles, except that any purchase of vehicles shall be referred to DOE in every instance (10 CFR section 440.18(c)(6)).
 - g. Employment of on-site supervisory personnel (10 CFR section 440.18(c)(7)).
 - h. Storage of weatherization materials, tools and equipment (10 CFR section 440.18(c)(8)).
 - i. The costs of incidental repairs to make the installation of weatherization materials effective (10 CFR section 440.18(c)(9)).
 - j. The cost of liability insurance for weatherization projects for personal injury and property damage (10 CFR section 440.18(c)(10)).
 - k. The cost of carrying out low cost/no cost weatherization assistance (10 CFR section 440.20).
 - l. The cost of WAP financial audits in accordance with 10 CFR section 440.23.
 - m. Administrative costs (10 CFR section 440.18(c)(13)).
 - n. The costs of eliminating health hazards, necessary to ensure the safe installation of weatherization materials (10 CFR section 440.18(c)(15)).

- o. Leveraging activities, as specified in leveraging section of the State Plan and grant agreement (10 CFR section 440.18(c)(14)). Leveraging entails a State obtaining additional program-targeted non-Federal or in-kind contributions as a result of WAP funded activities. Leveraging should be limited to contributions that can be clearly attributed to a State's weatherization activities, and that are used to augment those activities.

2. *Unallowable activities*

- a. Funds shall not be used to weatherize a dwelling unit which is designated for acquisition or clearance by a Federal, State or local program within 12 months from the date of the weatherization (10 CFR section 440.18(e)(1)).
- b. Funds may not be used to install or otherwise provide weatherization materials for a dwelling unit weatherized previously with grant funds, unless
 - (1) The weatherization activities may be considered "low cost/no cost" as described in 10 CFR section 440.20: inexpensive weatherization materials are used; no labor paid with funds provided is used to install weatherization materials referred to here; and a maximum of 10 percent of the amount allocated to a subgrantee, not to exceed \$50 in materials costs per dwelling unit, is expended (10 CFR section 440.18(e)(2)(i));
 - (2) Such a dwelling has been damaged by fire, flood or other Act of God and the repair of the damage is not paid for by insurance (10 CFR section 440.18(e)(2)(ii)); or
 - (3) The dwelling unit was weatherized under the Act or other Federal program during the period September 30, 1975 through September 30, 1985 (10 CFR section 440.18(e)(2)(iii)).

B. Allowable Costs/Cost Principles

1. Expenditures shall not exceed an average dollar amount per dwelling unit weatherized in the State. This number is adjusted annually by DOE and appears in the grant agreement (10 CFR section 440.18(b)(1)).
2. Expenditures on capital-intensive measures shall not exceed an average amount per unit weatherized in the State. This number may be found in the State Plan and grant agreement and may not be changed without a formal request for an amendment to the Plan (10 CFR section 440.18(b)(2)).

E. Eligibility

1. Eligibility for Individuals

- a. An individual or family dwelling is eligible for weatherization assistance provided that:
 - (1) The person or persons residing in the dwelling have an income that is at or below 125 percent of the Federal poverty level (10 CFR section 440.22(a)(1)). The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a page on the Internet which provides the poverty guidelines (<http://aspe.os.dhhs.gov/poverty/poverty.htm>);
 - (2) The dwelling contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law during the 12 month period preceding the determination of eligibility for weatherization assistance (10 CFR section 440.22(a)(2)); or
 - (3) If the State elects, is eligible for assistance under LIHEAP, provided that such a basis is at least 125 percent of the Federal poverty level (10 CFR section 440.22(a)(3)).
- b. Written permission has been obtained from the owner of the dwelling or her agent (10 CFR section 440.22(b)(1)).
- c. Not less than 66 percent (50 percent for duplexes and four-unit buildings) of the dwelling units in the building:
 - (1) Are eligible dwelling units in the manner defined in Eligibility for Individuals, above (10 CFR section 440.22(b)(2)(i)); or
 - (2) Will become eligible within 180 days under a Federal, State or local program for rehabilitating the building or making similar improvements to the building (10 CFR section 440.22(b)(2)(ii)); and
- d. If the dwelling to be weatherized is rented, a formal agreement between landlord and tenant has been reached addressing issues of eviction from and sale of property receiving weatherization materials (10 CFR section 440.22(c)).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

A subrecipient is eligible to provide weatherization services under WAP provided that:

- a. It is a public or non-profit entity, or a Community Action Agency (CAA) (i.e., a private corporation or public agency established under the Economic Opportunity Act of 1964, which is authorized to administer funds received from Federal, State or local entities to assess, design, operate, finance and oversee antipoverty programs) (10 CFR section 440.15(a)(1)); and
- b. It has been selected as a participant in the weatherization program on the basis of public comment received during a public hearing (10 CFR section 440.15(a)(2)).

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2. Level of Effort - Not Applicable

3. Earmarking

- a. An average of at least 40 percent of the funds provided in a State shall be spent for weatherization materials, unless DOE approves a waiver (10 CFR section 440.18(a)). All States have obtained a waiver of this requirement, except Tennessee, Hawaii and Georgia. Supplemental information regarding these three States may be found in their grant agreements and State plans.
- b. Not more than 10 percent of funds may be used in total or in part for administrative costs. A State shall not expend more than 5 percent for such administrative costs, with at least 5 percent going to subrecipients for administration. Subrecipients may spend no more than 10 percent of the grant for administration; however, for subrecipients receiving grants less than \$350,000, a State may permit that entity to expend more than 10 percent of its subgrant for administrative purposes (10 CFR section 440.18(d)).
- c. Not more than 10 percent of the funds may be used to provide, directly or indirectly, training and/or technical assistance to any grantee or subgrantee (10 CFR section 440.23(e)).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement and Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transaction Report* - Applicable

2. Performance Reporting - Not Applicable**3. Special Reporting** - Not Applicable

FEDERAL EMERGENCY MANAGEMENT AGENCY

CFDA 83.543 INDIVIDUAL AND FAMILY GRANTS

I. PROGRAM OBJECTIVE

The Individual and Family Grants (IFG) program is a cost-shared program to provide funds for the necessary expenses and serious needs of disaster victims, which cannot be met through other forms of disaster assistance or through other means such as insurance.

II. PROGRAM PROCEDURES

The Governor may request that a Federal grant be made to a State for the purpose of such State making grants to individuals or families who, as a result of a major disaster, are unable to meet disaster-related necessary expenses or serious needs. The total Federal grant is made only on condition that 25 percent of the actual cost of meeting individuals' or families' necessary expenses or serious needs is paid from funds made available by the State (44 CFR section 206.131). Free Associated States (FAS) have exceptions to the 75/25 percent cost share. These FAS are governed by the Compact of Free Associations with the US, "Federal Programs and Services Agreement with the Republic of the Marshall Islands and the Federated States of Micronesia," territories of the US (such as Guam and American Samoa), along with Commonwealth of the Northern Marianas Islands, operating under the "Covenant to Establish CNMI as a Political Union with the US."

The State administers the IFG program based on a State Administrative Plan that must be approved by the Federal Emergency Management Administration (FEMA) each January and at the beginning of the recovery process before Federal funds are awarded to the State. FEMA provides States administrative expenses in an amount equal to up to five percent of the Federal share of the program.

Source of Governing Requirements

This program is authorized by Section 411 of the Robert T. Stafford Disaster Relief and Emergency Act (Stafford Act), Pub. L. No. 93-288, as amended. Implementing regulations are 44 CFR section 206.131.

Availability of Other Information

General program information is available on the Internet at www.fema.gov/r-n-r/inassist.htm.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Activities allowed are grants to individuals or families who, as a result of a major disaster, are unable to meet disaster-related necessary expenses or serious needs and State administrative expenses (44 CFR section 206.131(a)).

E. Eligibility**1. Eligibility for Individuals**

With respect to any one major disaster, an individual or family may not receive a grant or grants under IFG totaling more than the statutorily determined maximum amount. This amount is \$14,400 for October 1, 2000 through September 30, 2001 and \$14,800 for October 1, 2001 through September 30, 2002. The amount is adjusted annually to reflect changes in the Consumer Price Index. FEMA notifies the States each year of the adjusted amount.

The State determines eligibility in accordance with the IFG State Administrative Plan, as approved by FEMA in accordance with 44 CFR section 206.131. FEMA performs damage verifications for the State on IFG applicants who are not required to apply for a Small Business Administration (SBA) loan, and on those applicants referred by SBA to IFG as a result of that agency's loan application process. FEMA conducts verifications (for States) in the categories of real and personal property, including verification of home ownership and primary residency, personal property, and transportation (vehicles) for those applicants who also have real and/or personal property losses. FEMA contract inspectors collect information for the State IFG program because they are at the damaged residence to perform verification on real and personal property losses. FEMA does not perform verification for applicants that only have a vehicle loss; the State performs verifications for those applicants. Certain damage or loss verifications are performed by the State, such as on late applications or reinspections, medical, dental, funeral, and other categories.

- 2. Eligibility of Group of Individuals or Area of Service Delivery - Not Applicable**
- 3. Eligibility for Subrecipients - Not Applicable**

G. Matching, Level of Effort, Earmarking**1. Matching**

Costs for payments to individuals and families are shared on a 75 percent Federal and 25 percent State basis. The State must provide the matching for IFG at the time of expenditure of Federal funds (e.g., when each IFG dollar is paid, the State provides 25 cents and the Federal funds provide 75 cents) (44 CFR section

206.131(a)). The Governor may, however, request a loan of the State's 25 percent share (44 CFR 206.45(a)).

2. Level of Effort - Not Applicable

3. Earmarking

Reimbursable State administrative expenses shall not exceed five percent of the Federal grant (44 CFR section 206.131(a)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

FEDERAL EMERGENCY MANAGEMENT AGENCY**CFDA 83.544 PUBLIC ASSISTANCE GRANTS****I. PROGRAM OBJECTIVE**

The objective is to provide assistance to States, local governments, and selected non-profit organizations under the Public Assistance Grants Program.

II. PROGRAM PROCEDURES

Following a Presidential declaration of a major disaster or an emergency, the Federal Emergency Management Agency (FEMA) awards grants for public assistance to States. The State may use the funds to restore its own disaster-damaged projects and to provide subgrants to local governments (including Indian tribes, authorized tribal organizations, and Alaskan native villages and organizations) and selected private non-profit facilities.

The Public Assistance program is administered by the State (e.g., the State Emergency Agency) in accordance with a FEMA-State Agreement to provide assistance which may be available under an emergency or major disaster declaration. The State acts as the grant administrator for all funds provided under the Public Assistance Grants Program. The grant administrator's responsibility includes providing technical advice and assistance to eligible subgrantees, providing State support for damage survey activities, ensuring that all potential applicants are aware of assistance available, and submission of documents necessary for grant awards (44 CFR sections 206.200 through 206.349). In certain circumstances an Indian Tribe may be a grantee.

For purposes of the Public Assistance program, the following terms will be used:

State - The State Agency which is defined as the grantee under FEMA regulations and acts as the grant administrator for the program.

Subgrantee - The government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided (44 CFR section 206.201(l)). (For example, in explaining this program, a State Highway Agency is considered a subgrantee of a State Emergency Agency even though both agencies may be included in the same State-wide single audit.)

RD - The FEMA Regional Director.

Public Assistance program awards are made based upon a Project Worksheet (PW) prepared by a project formulation team. The project formulation team normally includes a representative of FEMA, the State, and any subgrantee. The PW documents the project formulation team's determination of the eligible scope of work and cost estimate. The Public Assistance Program will fund a part of this eligible work in accordance with the FEMA-State Agreement. Each PW has a control number and any supplemental PWs will be referenced to the original PW.

Projects are classified as large or small projects according to the cost of the eligible work for the individual project. FEMA sets a dollar cost threshold for distinguishing large from small projects. Projects whose cost equals or exceeds this threshold are large projects; projects costing less are small projects. The threshold is adjusted each October to reflect changes in the Consumer Price Index, and published in the *Federal Register*. The threshold is \$50,600 for the period October 1, 2000 through September 30, 2001, and \$52,000 for the period October 1, 2001 through September 30, 2002. The date the disaster is declared by the President determines the threshold in use.

Small Projects

Applicants are encouraged to make their own estimates for small projects and prepare PWs to be submitted to FEMA. FEMA will then take a 20 percent sample of the small projects prepared by the applicant and verify that the scope of the work is eligible and the cost estimate reasonable. If the sample passes this validation, FEMA accepts all small project PWs from the applicant and obligates the funds. If the sample fails, a second 20 percent is reviewed. If the second sample also fails, FEMA assigns a specialist to assist the applicant in reformulating and resubmitting all small projects to FEMA. A FEMA representative is assigned to formulate an applicant's small projects, when an applicant elects not to do so.

For small projects, final payment of the Federal share of eligible costs is made upon approval of the project. The amount awarded for small projects based on the PW generally will not change except under unusual circumstances, such as failure to complete the work, an unexpected insurance recovery, or an obvious error in calculation. At close-out of the disaster contract, the State is required to certify that all projects were properly completed and that the State contribution, as specified in the FEMA-State Agreement, was paid to each subgrantee. However, this certification does not specify the amount spent by a subgrantee on small projects. If the actual cost for small projects is less than the estimated cost on the PW, FEMA generally will not ask for a refund. Similarly, FEMA generally will not provide additional funding when actual costs exceed the PW estimate. However, provision is made that, when a subgrantee has significant overruns, an appeal may be made to FEMA for additional funding based upon the total final costs for all small projects (44 CFR sections 206.204(e) and 206.205(a)).

Large Projects

For large projects, the State must make an accounting to FEMA of eligible costs for each approved large project. In submitting the accounting, the State must certify that reported costs were incurred in the performance of eligible work, that the approved work was completed, that the project is in compliance with the FEMA-State Agreement, and that payments for the project have been made in accordance with the A-102 Common Rule's requirements for payment. The subgrantee is required to make similar accounting and certifications to the State. If actual costs are less than the approved amount, then the FEMA share will be based upon the actual costs. The subgrantee may request additional funding for eligible cost overruns on large projects. For additional funding, these requests must include a written recommendation from the State and approval of the RD (44 CFR sections 206.204(e) and 206.205).

Improved Projects

If a subgrantee desires to make improvements, but still restore the pre-disaster function of a damaged facility, State approval must be obtained. Federal funding for an improved project is limited to the Federal share of the approved estimate of the eligible costs. Funds approved as an improved project can only be used as a contribution for the construction of larger or improved facilities that restore at least the pre-disaster capacity of the damaged or destroyed facility. For example, if eligible work to restore the pre-disaster capacity is \$100,000, and the subgrantee chooses to rebuild an improved facility which costs \$200,000, then the FEMA share is only based on the \$100,000. However, if the actual cost is less than the eligible work of \$100,000 (e.g., construction costs are much lower than expected), then a FEMA adjustment is required (44 CFR section 206.203).

Alternate Projects

In a case where the subgrantee determines that the public welfare would not be best served by restoring a damaged public facility, the State may request that FEMA approve an alternate project. This option is available only for permanent, restorative work. Funds contributed for alternate projects may be used to repair or expand other selected public facilities, to construct new facilities, or to fund hazard mitigation measures. These funds may neither be used to pay the non-Federal share of any project nor for any operating expense (44 CFR section 206.203(d)(2)).

Funds approved for an alternate project can be used only for alternate projects specifically approved by FEMA. While the States and subgrantees have flexibility to propose the type and size of alternate projects they wish to construct, FEMA must review such proposed projects to ensure compliance with environmental and other special concerns (44 CFR section 206.203).

Administrative Costs

FEMA also provides funding for costs incurred by States and their subgrantees in administering the Public Assistance Grant Program. The State receives a statutory administrative cost allowance determined according to a formula based on percentages of the aggregate Federal share of funding provided to subgrantees for approved projects. State administrative costs not covered by this allowance may also be allowed with FEMA prior approval. The State awards administrative cost allowances to subgrantees according to a formula based on percentages of the subgrantees' net eligible project costs.

Source of Governing Requirements

This program is authorized by 42 USC 5121 *et seq.* Program regulations issued by FEMA are codified at 44 CFR sections 206.200 through 206.349.

Availability of Other Program Information

Additional program information is available on the FEMA website at www.fema.gov/r-n-r/pa.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

The allowed activities for the Public Assistance program are for the approved project as described on the PW and supporting documentation. The approved project may be repair of the damaged facility, an improved project, or an alternate project (44 CFR section 206.203).

B. Allowable Costs/Cost Principles

1. *Equipment Usage* - The Public Assistance program restricts eligible direct costs for applicant-owned equipment used to perform eligible work to reasonable rates that were established under State guidelines, or when the hourly rate exceeds \$75, rates may be determined on a case by case basis by FEMA. When local guidelines are used to establish equipment rates, reimbursement is based on those rates or rates in a Schedule of Equipment Rates published by FEMA, whichever is lower. Provision is also made when no rates are established or the entity wishes to claim an equipment rate which exceeds the FEMA Schedule (44 CFR section 206.228(a)(1)).
2. *Administrative Costs*
 - a. *Grantee* - A State may use funds made available by FEMA under its administrative cost allowance only for extra-ordinary direct costs of preparing PWs, final inspection reports, project applications, etc., and for making final audits and related field inspections. Specific cost items allowable for such purposes include overtime pay, per diem and travel expenses for State employees, but not regular (straight time) salaries. Cost items not eligible for funding from the State's administrative cost allowance, but still related to managing the program, may be funded from the grant if prescribed in an approved PW. A State may recover regular (straight time) salaries and certain other administrative costs in this way (44 CFR sections 206.228(a)(2) and (a)(3)).
 - b. *Subgrantee* - A subgrantee may use funds made available in its administrative cost allowance for necessary costs of requesting, obtaining, and administering its subgrant. No other direct or indirect costs are allowable at the subgrantee level (44 CFR sections 206.228(a)(2) and (a)(3)).

3. *Force Account Labor Costs* - The straight- or regular-time salaries and benefits of a subgrantee's permanently employed personnel are not eligible in calculating the cost of eligible work for emergency protective services or debris removal under sections 403 and 407 of the Stafford Act (42 USC 5170b and 5173, respectively). For performance of eligible permanent restoration under section 406 of the Stafford Act (42 USC 5172), straight-time salaries and benefits of a subgrantee's permanently employed personnel are eligible (44 CFR section 206.228(a)(4)).
4. *Insurance and Other Recoveries* - Auditors are advised that there are likely to be amounts from insurance settlements, salvage, or other sources which must be considered in determining allowable costs because allowable costs must be net of applicable credits.

E. Eligibility

1. **Eligibility for Individuals** - Not Applicable
2. **Eligibility of Group of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients**

A State may award subgrants under this program to the following types of entities:

- a. State and local governments;
- b. Private non-profit organizations or institutions which own or operate a private non-profit facility, such as (but not limited to) an educational, medical, or custodial care facility, or other facility providing essential governmental type services to the public; and
- c. Indian tribes or authorized tribal organizations and Alaska Native villages or organizations (but not Alaska Native Corporations, the ownership of which is vested in private individuals) (44 CFR sections 206.221 and 206.222).

G. Matching, Level of Effort, Earmarking

1. Matching

Costs must be on a shared basis, as specified in the FEMA-State agreement. In general, the minimum Federal share is 75 percent of eligible costs. For an alternate project, however, Federal funding is based on 75 percent of the Federal share of the approved estimate of eligible costs. For example, if the approved estimate of eligible costs to restore the pre-disaster capacity is \$100,000, and the entity chooses not to rebuild but instead to do alternate work, then assuming a 75 percent match, the Federal share is computed as:

Approved estimate of eligible costs	\$100,000
Assumed match of 75% Federal/25% State	X 75%
Subtotal	\$ 75,000
Adjustment for alternate project	X 75%
Federal share	\$ 56,250

If unstable soil at the original site is the reason for a governmental applicant choosing an alternate project, the adjustment is 90% (Pub. L. No. 93-288 as amended by the Stafford Act; 42 USC 5121 *et seq.*; and 44 CFR sections 206.203(b) and 206.203(d)(2)).

The matching split between the State and the subgrantee will vary. The accountability for meeting the matching requirement is determined at the time of project accounting as part of project closeout, (e.g., the State match does not have to be provided until the end of the project).

2. Level of Effort - Not Applicable

3. Earmarking

The State makes funding available to subgrantees for their direct costs of requesting, obtaining, and administering public assistance projects according to the following formula: (a) three percent of the subgrantee's first \$100,000 of net eligible project costs; (b) two percent of the subgrantee's next \$900,000 of such costs; (c) one percent of the subgrantee's next \$4 million of such costs; and (d) one-half of one percent of the subgrantee's net eligible costs over \$5 million (44 CFR section 206.228(a)(2)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable only to those non-Federal entities who do not utilize the Department of Health and Human Services, Payment Management System.
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Applicable
- e. FEMA 20-10 *Financial Status Report (OMB No. 3067-0206)* - This form is used in lieu of the SF-269.

- f. *Public Assistance Program (OMB No. 3067-0151)* - The State is required to submit quarterly financial and progress reports to the RD. The reports should describe the status of those projects on which a final payment of the Federal share has not been made to the State and outline any problems or circumstances expected to result in noncompliance with the approved grant conditions (44 CFR section 206.204(f)). Subgrantee reporting is as required by the State. There is no standard FEMA form; grantees are required to report on all large projects.

Key Line Items - The following line items contain critical information.

All line items containing financial information.

2. **Performance Reporting** - Not Applicable

3. **Special Reporting** - Not Applicable

N. **Special Tests and Provisions**

1. **Project accounting**

Compliance Requirement - For large projects, the State is required to make an accounting to FEMA of eligible costs. Similarly, the subgrantee must make an accounting to the State. In submitting the accounting, the entity is required to certify that reported costs were incurred in performance of eligible work, that the approved work was completed, that the project is in compliance with the provisions of the FEMA-State Agreement, and that payments for that project were made in accordance with the A-102 Common Rule's payment provisions. For improved and alternate projects, if the total cost of the projects does not equal or exceed the approved eligible costs, then the auditor should expect to see an adjustment to reduce eligible costs (44 CFR section 206.205).

Audit Objective - Determine whether ongoing and completed projects were accounted for in accordance with the required certification.

Suggested Audit Procedures

Projects not completed

- a. Select a sample of ongoing large projects and ascertain if costs submitted for reimbursement were in compliance with the requirements for eligible work under the applicable PW. Testing should consider the differences in the requirements and approvals required of improved and alternate projects.

Completed projects

- b. Select a sample of large projects completed during the audit period and ascertain if the entity's files document the total costs as allowable costs and if the costs are

for allowable activities under the applicable PW. This testing should consider the differences in the requirements and approvals required of improved and alternate projects.

FEDERAL EMERGENCY MANAGEMENT AGENCY

CFDA 83.548 HAZARD MITIGATION GRANT (HMGP)

I. PROGRAM OBJECTIVES

The Hazard Mitigation Grant Program (HMGP) is a cost-shared program administered by the Federal Emergency Management Agency (FEMA). The program's purpose is to mitigate the vulnerability of life and property to future disasters during the recovery and reconstruction process following an actual disaster. To accomplish this purpose, FEMA assists States to avoid or lessen the impact of natural hazards through such strategies as safer building practices and the improvement of existing structures and supporting infrastructure.

II. PROGRAM PROCEDURES

Program Administration

FEMA awards HMGP grants to States, which in turn may award subgrants to other State agencies, local governments, Indian tribal organizations, and other eligible entities. Each State administers the HMGP according to a FEMA-State Agreement, a comprehensive State Hazard Mitigation Plan, and a State HMGP Administration Plan. These plans must be approved by FEMA before funds are awarded to the State. FEMA is responsible for assisting the State, approving or denying project applications, and reviewing the State's quarterly and final reports.

FEMA also provides funding for costs incurred by States and their subgrantees in administering the HMGP. The State receives a statutory administrative cost allowance determined according to a formula based on percentages of the aggregate Federal share of funding provided to subgrantees for hazard mitigation projects. State management costs not covered by the allowance may be allowed with FEMA prior approval. The State awards statutory administrative cost allowances to subgrantees according to a formula based on percentages of the subgrantee's net eligible project costs. If requested, management costs are awarded as a part of the HMGP ceiling.

Eligible Projects

All projects funded under HMGP grants must meet the minimum project criteria at 44 CFR section 206.434(b), and otherwise conform to the State's comprehensive Hazard Mitigation Plan. Within these parameters, they may be of any nature that will result in the protection of life and property from natural hazards. Eligible projects may include, but are not limited to:

1. Acquisition of hazard-prone property and its conversion to open space;
2. Retrofitting of existing buildings and facilities;
3. Elevation of flood-prone structures;
4. Vegetative management and soil stabilization;
5. Infrastructure protection measures;

6. Storm-water management;
7. Minor structural flood control projects; and
8. Post-disaster code enforcement activities.

Application and Award Process

After determining that disaster relief and recovery needs cannot be met with resources available within the State, the Governor requests a Presidential declaration designating the State a disaster area. States have up to 18 months from the date the disaster is declared to review and submit applications. The application must identify the specific mitigation measure(s) for which the State requests funding, and any entities to which the State intends to award subgrants.

In addition to submitting applications and supporting documents to FEMA, the Governor's Authorized Representative appoints a State Hazard Mitigation Officer. This official ensures that all potential applicants are made aware of the assistance available under the HMGP; and provides technical advice and assistance to eligible subgrantees. Indian tribal organizations can receive HMGP assistance as subgrantees of States or apply directly to FEMA. Where FEMA awards a grant directly to an Indian tribal government, the two entities enter into a FEMA-Tribal agreement modeled on the FEMA-State agreement.

Source of Governing Requirements

The HMGP is authorized by section 404 of the Stafford Act (42 USC 5170c). Program regulations are codified at 44 CFR part 206, subpart N (Hazard Mitigation Grant Program).

Availability of Other Program Information

Additional program information is available from the FEMA site located on the Internet at: www.fema.gov/fima. HMGP *Desk Reference* is available at www.fema.gov/mit/hmgrp.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

The activities allowed for an HMGP project are those described in the grant application approved by FEMA and the supporting documentation (44 CFR section 206.436(d)).

B. Allowable Costs/Cost Principles

1. Direct Administrative Costs

- a. *Grantee* - A State may use funds made available by FEMA under its administrative cost allowance only for extraordinary direct costs of preparing applications and quarterly reports, and making final audits and related field inspections. Specific cost items allowable for such purposes include overtime pay, per diem and travel expenses for State employees, but not their regular (straight-time) salaries. Cost items not eligible for funding from the State's administrative cost allowance, but still related to managing the program, may be funded from the grant if FEMA gives prior approval. Regular (straight-time) salaries may be funded in this way. In the case of staffing costs for the State's Disaster Field Office, FEMA gives prior approval by approving the State's staffing plan (44 CFR section 206.439(b)).
- b. *Subgrantee* - A subgrantee may use funds made available by the grantee in its administrative cost allowance only for direct costs of requesting, obtaining, and administering its subgrants (44 CFR section 206.439(b)).

2. Indirect Costs

Grantee indirect costs identified in accordance with the Federal cost principles are allowable. Indirect costs at the subgrantee level are unallowable (44 CFR section 206.439(c)).

E. Eligibility

- 1. Eligibility for Individuals** - Not Applicable
- 2. Eligibility of Group of Individuals or Area of Service Delivery** - Not Applicable
- 3. Eligibility for Subrecipients**

The following types of entities are eligible to apply to the State for HMGP subgrants:

- a. State and local governments;
- b. Private non-profit organizations or institutions that own or operate a private non-profit facility as defined at 44 CFR section 206.221(e); and
- c. Tribes or authorized tribal organizations and Alaskan Native villages or organizations (44 CFR section 206.434(a)).

G. Matching, Level of Effort, Earmarking

1. Matching

The Federal and non-Federal shares of a project's cost are established in the State's FEMA-State Agreement. While the non-Federal share may exceed the Federal share, it may never be less than 25 percent of the cost of a project approved for disasters declared after June 10, 1993. (That is, the Federal share may never exceed 75 percent.) The Federal share may not exceed 50 percent for projects approved for disasters declared before that date. Funds made available to a State or subgrantee in its administrative cost allowance are not subject to this requirement (44 CFR section 206.432(c)).

2. Level of Effort - Not Applicable

3. Earmarking

The State makes funding available to subgrantees for their direct costs of requesting, obtaining, and administering HMGP projects according to the following formula: (a) three percent of the subgrantee's first \$100,000 of net eligible project costs; (b) two percent of the subgrantee's next \$900,000 of such costs; (c) one percent of the subgrantee's next \$4 million of such costs; and (d) one-half of one percent of the subgrantee's net eligible project costs over \$5 million. (44 CFR section 206.439(b)(1)(ii))

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Applicable, but not required unless the State has a grant for direct construction.
- d. SF-272, *Federal Cash Transactions Report*- Applicable
- e. FEMA Form 20-10, *Financial Status Report (OMB No. 3067-0206)* - This form may be used in lieu of the SF-269, as determined by the grantee and the FEMA regional office. Once this determination is made, the State uses the selected form for all its reporting on FEMA programs.
- f. FEMA Form 20-18, *Report of Government Property* (OMB No. 3067-0206) - This form is submitted upon completion work under a grant, cooperative agreement, or contract. It provides an inventory of equipment purchased by the grantee or provided by the Federal Government. FEMA and the grantee use this information to determine the disposition of the equipment.

- g. FEMA Form 20-19, *Reconciliation of Grants and Cooperative Agreements* (OMB No. 3067-0206) - This report captures a State's program transactions and related unobligated balances of Federal funds, cash drawdowns, and undrawn cash balances. It is used to reconcile awards, outlays, and drawdowns during and at the completion of a HMGP grant.

Key Line Items - The following line items contain critical information.

B. History of Transactions:

1. Column (b) - *Description of Transaction*
 2. Column (d) - *Total Federal Share*
 3. Column (f) - *Amount (of cash drawdown)*
2. **Performance Reporting** - Not Applicable
3. **Special Reporting** - Not Applicable

IV. Other Information

In the administration of this grant, the State may "subgrant" funds to another part of the State (e.g., a State agency). If the other part of the State receiving the "subgrant" is included in the audit of the State, such as a State-wide audit, then for purposes of determining Type A programs and reporting on the Schedule of Expenditures of Federal awards, these "subgrants" within the single audit reporting entity should be eliminated. However, all Federal awards expended under this program by the State (including a part of the State receiving a "subgrant" from the State) should be subject to the State's OMB Circular A-133 audit.

DEPARTMENT OF EDUCATION

CROSS-CUTTING SECTION

INTRODUCTION

This section contains compliance requirements that apply to more than one Department of Education (ED) program either because the program was authorized under the Elementary and Secondary Education Act (ESEA), or the program is subject to the General Education Provisions Act (GEPA), or both. The compliance requirements in this Cross-Cutting Section reference the applicable programs in Part 4, Agency Compliance Requirements. Similarly, the applicable programs in Part 4 reference this Cross-Cutting Section.

CFDA #	Program Name	Listed as
ESEA Programs		
84.010	Title I Grants to Local Educational Agencies (LEAs)	Title I, Part A
84.011	Migrant Education--Basic State Grant Program	MEP
84.186	Safe and Drug-Free Schools and Communities--State Grants	SDFSCA
84.281	Eisenhower Professional Development State Grants	Eisenhower
84.282	Charter Schools	PCSP
84.287	Twenty-First Century Community Learning Centers	21st Century
84.288	Bilingual Education--Program Development and Implementation Grants	Bilingual
84.290	Bilingual Education--Comprehensive School Grants	
84.291	Bilingual Education--Systemwide Improvement Grants	
84.298	Innovative Education Program Strategies	Title VI
84.318	Technology Literacy Challenge Fund Grants	TLCF
84.338	Reading Excellence Program	REP
84.340	Class Size Reduction	CSR
Other Programs		
84.002	Adult Education--State Grant Program	Adult Education
84.027	Special Education--Grants to States (IDEA, Part B)	IDEA
84.173	Special Education--Preschool Grants (IDEA Preschool)	

84.042 TRIO -- Student Support Services	TRIO Cluster
84.044 TRIO -- Talent Search	
84.047 TRIO -- Upward Bound	
84.066 TRIO -- Educational Opportunity Centers	
84.217 McNair Post-Baccalaureate Achievement	
84.048 Vocational Education--Basic Grants to States	Vocational Education
84.126 Rehabilitation Services - Vocational Rehabilitation Grants to States	Vocational Rehabilitation
84.181 Special Education--Grants for Infants and Families with Disabilities	IDEA, Part C
84.276 Goals 2000--State and Local Education Systemic Improvement Grants	Goals 2000
None School-to-Work Opportunities Act of 1994	School-to-Work

Waivers

Under Title XIV of the ESEA, States, Indian tribes, LEAs, and schools through their LEA may request waivers from ED of many of the statutory and regulatory requirements of programs authorized in ESEA. The Goals 2000: Educate America Act and the School to Work Opportunities Act also provide waiver authority. However the authority provided by Goals 2000 expired September 30, 2000 and the authority provided by School to Work expired on September 30, 2001. In addition, some States may have been granted authority to grant waivers of Federal requirements under either the educational flexibility (Ed-Flex) demonstration program of Goals 2000 or the new Education Flexibility Partnership Act of 1999. Auditors should ascertain from the audited State Education Agencies (SEAs) and LEAs whether the SEA or the LEA or its schools are operating under any waivers.

I. PROGRAM OBJECTIVES

The ESEA of 1965, as amended by the Improving America's Schools Act (IASA), provides for a comprehensive overhaul of programs providing more than \$10 billion a year of Federal support for education, and restructures how these programs provide services. ESEA programs in this Supplement to which this section applies are shown above. These requirements are applicable for fiscal years beginning after June 30, 1995.

Under the IASA, Federal education programs authorized in the ESEA are designed to work in concert with each other, rather than separately. By emphasizing program coordination, planning, and service delivery among Federal programs and enhancing integration with State and local instructional programs, the ESEA reinforces comprehensive State and local educational reform efforts geared toward ensuring that all children can meet challenging State standards regardless of their background or the school they attend.

Program objectives for non-ESEA programs covered by this cross-cutting section and additional information on program objectives for the ESEA programs are set forth in the individual program sections of this Supplement.

II. PROGRAM PROCEDURES

Plans for ESEA Programs

A SEA must either develop and submit separate, program-specific individual State plans to ED for approval as provided in individual program requirements outlined in the ESEA or submit, in accordance with section 14302 of the ESEA, a consolidated plan to ED for approval.

Consolidated plans will provide a general description of the activities to be carried out with ESEA funds. Subgrants to LEAs and other educational service agencies and amounts to be used for State activities are often set by law for ESEA programs. However, SEAs have discretion in using funds available for State activities.

LEAs also have the choice in many cases of submitting individual program plans or a consolidated plan to the SEA to receive program funds. SEAs with approved consolidated State plans may require LEAs to submit consolidated plans.

Unique Features of ESEA Programs That May Affect the Conduct of the Audit

Consolidation of administrative funds

SEAs and LEAs (with SEA approval) may consolidate funds received for administration of many ESEA programs, thus eliminating the need to account for these funds on a program-by-program basis. SEAs may also include funds received for administration of Goals 2000 (CFDA 84.276) in this consolidation. The amount from each applicable program set aside for State consolidation may not be more than the percentage, if any, authorized for State administration under that program. Federal expenditures may be charged to the programs on a first in/first out method, in proportion to the funds provided by each program, or another reasonable manner. The amount set aside under each covered program for local consolidation may not be more than the percentage, if any, authorized for local administration under that program.

Coordinated services projects

An LEA, an individual school, or consortium of schools (if there is no governing LEA), with the approval of the Secretary, may use not more than five percent of its ESEA funds to implement a coordinated services project under Title XI of the ESEA. Audit coverage for transferred funds is described in the Activities Allowed or Unallowed compliance requirement of Section III of these cross-cutting provisions.

Schoolwide Programs

Eligible schools are able to use their Title I, Part A funds, in combination with other Federal, State, and local funds, in order to upgrade the entire educational program of the school and to raise academic achievement for all students. Except for some of the specific requirements of the

Title 1, Part A program, funds that are used in a schoolwide program are not subject to the statutory or regulatory requirements of the programs providing the funds as long as the intent and purpose of those programs are met by the schoolwide program. *The Title I, Part A requirements that apply to schoolwide programs are identified in the Title I, Part A program specific section.*

No Child Left Behind Act

The Elementary and Secondary Education Act (ESEA) was amended January 8, 2002 by the No Child Left Behind Act of 2001 (Pub. L. No. 107-110). Most changes will not affect programs until after July 1, 2002. However, several changes take effect immediately. For example, transferability is a new flexibility authority that allows States and LEAs to transfer a portion of the funds that they receive under certain Federal formula grant programs to other programs. Questions about these provisions may be directed to the ED contacts for A-133 audits listed in Appendix III of this Supplement.

General and Program-Specific Cross-Cutting Requirements

The requirements in this cross-cutting section can be classified as either general or program-specific. General cross-cutting requirements are those that are the same for all applicable programs but are implemented on an entity-level. These requirements need only be tested once to cover all applicable major programs. The general cross-cutting requirements that the auditor only need test once to cover all applicable major programs are: III.G.2.1, Level of Effort-Maintenance of Effort (SEAs/LEAs); III.L.3, Special Reporting; and, III.N, Special Tests and Provisions (III.N.1, Participation of Private School Children; III.N.2, Schoolwide Programs; and, III.N.3, Comparability). Program-specific cross-cutting requirements are the same for all applicable programs, but are implemented at the individual program level. These types of requirements need to be tested separately for each applicable major program.

Program procedures for non-ESEA programs covered by this cross-cutting section and additional information on program procedures for the ESEA programs are set forth in the individual program sections of this Supplement. A copy of the Improving America's Schools Act with a hypertext index can be accessed on the Internet at <http://www.ed.gov/legislation/ESEA/toc.html>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Further, if there has been a transfer of funds to a consolidated administrative cost pool or a coordinated services project from a major program, in developing audit procedures to test compliance with Activities Allowed or Unallowed and Allowable Costs/Cost Principles, the auditor should include the consolidated administrative cost pool or coordinated services project expenditures in the universe to be tested.

A. Activities Allowed or Unallowed

1. Consolidation of administrative funds (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114 (84.186); Eisenhower (84.281); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Goals 2000 (for SEA's only) (84.276)

An SEA must use consolidated administrative funds for authorized administrative activities of the consolidating programs and may use such funds for administrative activities designed to enhance the effective and coordinated use of funds under the programs included in the consolidation, such as coordination of ESEA programs with other Federal and non-Federal programs; the establishment and operation of peer review mechanisms; the dissemination of information regarding model programs and practices; and technical assistance.

If an LEA consolidates administrative funds, the LEA may not use any other funds from the consolidating programs for administration.

An SEA or LEA that consolidates administrative funds is not required to keep separate records of administrative costs for each individual program. Expenditures of consolidated administrative funds are allowable if they are for administrative costs that are allowable under any of the contributing programs (Sections 14201 and 14203 of ESEA (20 USC 8821 and 8823)).

2. Use of unneeded program funds (LEAs)

ESEA programs in this Supplement to which this section applies are: MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); Title VI (84.298); TLCF (84.318); and CSR (84.340).

With the approval of its SEA, an LEA that determines for any fiscal year that funds under an applicable program (MEP, Eisenhower, SDFSCA, Title VI, TLCF, and CSR) are not needed for the purpose of that applicable program may use five percent or less of the total amount of the funds received under that applicable program for the purpose of another applicable program. Title I, Part A may receive funds but Title I, Part A funds may not be transferred to other programs. This determination may be made at any time during the period of availability of the funds. This provision, however, does not extend the period for obligating unneeded program funds beyond the period of availability for the applicable program from which the funds were transferred. The expenditure of the funds transferred is subject to the requirements of the program to which transferred (Section 14206(a) of ESEA (20 USC 8826(a))).

Compliance with the maximum transfer of five percent maximum is tested under III.G.3.b, Earmarking, *Use of unneeded program funds*.

See IV, Other Information, for guidance on Type A program determination and Schedule of Expenditure of Federal awards.

3. Coordinated services projects (LEAs)

This section applies to all ESEA programs in this Supplement: Title I, Part A (84.010), MEP (84.011), SDFSCA (84.186), Eisenhower (84.281), PCSP (84.282), 21st Century (84.287), Bilingual (84.288, 84.290, 84.291), Title VI (84.298), TLCF (84.318), REP (84.338), CSR (84.340).

In addition to using funds for specific purposes outlined in each program's statute and regulations, an LEA, school, or group of schools if there is no governing LEA, upon application to and approval by ED, may use a total of not more than five percent of its funds received under ESEA to develop, implement, or expand a coordinated services project. ED will notify an SEA of its approval of any coordinated services projects within the State.

Funds transferred to a coordinated services project are subject to the compliance requirements applicable to the coordinated services project. Funds reserved for a coordinated services project may be used for any activity relevant to the project, except that those funds may not be used for the direct provision of health or health-related services. Acceptable uses of funds may include, but are not limited to, hiring a coordinator, making minor renovations to existing buildings, purchasing basic operating equipment, improving communications and information-sharing among participating entities, teacher and staff training, and conducting a statutorily required needs assessment. Funds used for this purpose must be obligated within the period of availability of funds for the program from which funds were transferred (Title XI and Section 14206(b) of ESEA (20 USC 8401 et seq. and 8826(b))).

Compliance with the maximum transfer of five percent to a coordinated services project is tested under III.G.3.c, Earmarking, *Coordinated services projects*.

See IV, Other Information, for guidance on Type A program determination and Schedule of Expenditure of Federal awards.

4. Schoolwide Programs (LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (84.186); Eisenhower (84.281); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Goals 2000 (84.276); IDEA (84.027 and 84.173) and Vocational Education (84.048).

A school participating under Title I, Part A may, in consultation with its LEA, use its Title I, Part A funds, along with funds provided from the above-identified programs, to upgrade the school's entire educational program in a schoolwide program. See III.N.2, Special Tests and Provisions - Schoolwide Programs, in this cross-cutting section for testing related to schoolwide programs (Section 1114 of ESEA (20 USC 6314)).

See IV, Other Information, for guidance on the treatment of combined schoolwide funds for purposes of Type A program determination and presentation in the Schedule of Expenditures of Federal Awards.

B. Allowable Costs/Cost Principles

1. Alternative Fiscal and Administrative Requirements (SEAs/LEAs)

This section applies to all ESEA programs in this Supplement: Title I, Part A (84.010), MEP (84.011), SDFSCA (84.186), Eisenhower (84.281), PCSP (84.282), 21st Century (84.287), Bilingual (84.288, 84.290, 84.291), Title VI (84.298), TLCF (84.318), REP (84.338); CSR (84.340).

This section also applies to Goals 2000 (84.276).

A State may adopt its own written fiscal and administrative requirements, which are consistent with the provisions of OMB Circular A-87, for expending and accounting for all funds received by SEAs and LEAs under ESEA programs. The written fiscal and administrative requirements must: (1) be sufficiently specific to ensure that funds are used in compliance with all applicable statutory and regulatory provisions, including ensuring that costs are allocable to a particular cost objective; (2) ensure that funds received are spent only for reasonable and necessary costs of the program; and (3) ensure that funds are not used for general expenses required to carry out other responsibilities of State or local governments (34 CFR section 299.2).

2. Documentation of Employee Time and Effort (Consolidated Administrative Funds and Schoolwide Programs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114, operated by SEA's consolidating administrative funds)(84.186); Eisenhower (84.281); 21st Century (84.287); Bilingual (schoolwide programs only)(84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Goals 2000 (except for LEA's consolidating administrative funds)(84.276); IDEA (schoolwide programs only)(84.027 and 84.173) and Vocational Education (schoolwide programs only)(84.048).

An SEA or LEA that consolidates administrative funds under 20 USC 8821 and 8823 may treat as a Single Cost Objective the portion of an employee's time and effort supported by consolidated administrative funds. Likewise, a school that participates in a schoolwide program under 20 USC 6314, may treat as a Single Cost Objective the portion of an employee's time and effort supported by combined schoolwide funds (20 USC 6314, 8821, and 8823).

- a. An employee whose compensation is funded solely from a Single Cost Objective (i.e., consolidated administrative funds or combined schoolwide program) must furnish semi-annual certifications that he/she has been engaged solely in activities supported by the applicable source in accordance with OMB Circular A-87, Attachment B paragraph 11.h.3.
- b. An employee paid in part from a Single Cost Objective, and in part with funds from other revenue sources, must maintain time and effort distribution records in accordance with OMB Circular A-87, Attachment B paragraph 11.h.4. documenting the portion of time and effort dedicated to:
 - (1) The Single Cost Objective, and
 - (2) Each program or other cost objective supported by the other revenue sources.

3. Indirect Costs (All grantees/All subgrantees)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); Eisenhower (84.281); PCSP (84.282); 21st Century (84.287); Bilingual (84.288, 84.290, and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Adult Education (84.002); IDEA (84.027 and 84.173); Vocational Education (84.048); IDEA, Part C (84.181); and Goals 2000 (84.276).

A "Restricted" Indirect Cost Rate (RICR) must be used for programs administered by State and local governments and their governmental subrecipients that have a statutory requirement prohibiting the use of Federal funds to supplant non-federal funds. Non-governmental grantees or subrecipients administering such programs have the option of using the RICR, or an indirect cost rate of 8 percent, unless ED determines that the RICR would be lower.

The formula for the restricted indirect cost rate is as follows:

$$\text{RICR} = (\text{General management costs} + \text{Fixed costs}) / (\text{Other expenditures})$$

General management costs are costs of activities that are for the direction and control of the grantee's affairs that are organization wide, such as central accounting services, payroll preparation and personnel management. For State and local governments the general management indirect costs consist of (1) allocated Statewide Central Service Costs approved by the Department of Health and Human Services in a formal Statewide Cost Allocation Plan (SWCAP) as "Section I" costs and (2) departmental indirect costs. The term general management as it applies to departmental indirect costs does not include expenditures limited to one component or operation of the grantee. Specifically excluded from general management costs are the following costs which are reclassified and included in the "other expenditures" denominator:

- 1) divisional administration that is limited to one component of the grantee;
- 2) the governing body of the grantee;
- 3) compensation of the chief executive officer of the grantee;
- 4) compensation of the chief executive officer of any component of the grantee; and
- 5) operation of the immediate offices of these officers.

Also excluded from the SWCAP Section I indirect costs are any occupancy and maintenance type costs as described in 34 CFR section 76.568. However, because these costs are allocated and not incurred at the departmental level, they do not require reclassification to the "other expenditure" denominator.

Fixed costs are contributions to fringe benefits and similar costs associated with salaries and wages that are charged as indirect costs, including retirement, social security, pension, unemployment compensation and insurance costs.

Other expenditures are the grantee's total expenditures for its federally and non-federally funded activities, including directly charged occupancy and space maintenance costs (as defined in 34 CFR section 76.568), and the costs related to the chief executive officer of the grantee or any component of the grantee and their offices. Excluded are general management costs, fixed costs, subgrants, capital outlays, debt service, fines and penalties, contingencies, and election expenses (except for elections required by Federal statute).

Indirect costs charged to a grant are determined by applying the RICR to total direct costs of the grant minus capital outlays, subgrants and other distorting or unallowable items as specified in the grantee's indirect cost rate agreement.

The other ED programs (those not having a statutory non-supplant requirement) which allow indirect costs do not require a restricted rate and should follow the applicable OMB cost principles circular (34 CFR sections 76.560 and 76.563-569).

C. Cash Management

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (including the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); PCSP (84.282); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338) and CSR (84.340).

This section also applies to Adult Education (84.002); IDEA (84.027 and 84.173); TRIO Cluster (84.042, 84.044, 84.047, 84.066 and 84.217); Vocational Education (84.048); Vocational Rehabilitation (84.126); IDEA, PART C (84.181); School-to-Work (No CFDA); and Goals 2000 (84.276).

Grantees draw funds using the Grant Administration and Payment System (GAPS). Grantees request funds by: (1) creating a payment request using the GAPS External Access System through the Internet; (2) calling the GAPS Payee Hotline; or (3) if the grantee is placed on a reimbursement basis for an award, submitting an SF-270, *Request for Advance or Reimbursement* to an ED program or regional office. When creating a payment request in GAPS, the grantee enters the drawdown amounts, by award, directly into GAPS. Grantees can redistribute drawn amounts between grant awards by making adjustments in GAPS to reflect actual disbursements for each award. When requesting funds using the other two methods, the grantee provides drawdown information to the hotline operator, or on the SF-270.

To assist grantees in reconciling their internal accounting records with GAPS, grantees can use the GAPS External Access System (<http://e-grants.ed.gov>) to obtain a GAPS Activity Report showing cumulative and detail information for each award. The GAPS Activity Report can be created and viewed on-line and a hard copy may be printed as well.

G. Matching, Level of Effort, Earmarking

1. Matching

See individual program compliance supplement for any matching requirements.

2.1 Level of Effort - Maintenance of Effort (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); SDFSCA (except the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); and TLCF (84.318).

As described in II. Program Procedures under *General and Program-Specific Cross-cutting Requirements*, this requirement is a general cross-cutting requirement that need only be tested once to cover all major programs to which it applies.

An LEA may receive funds under an applicable program only if the SEA finds that the combined fiscal effort per student or the aggregate expenditures of the LEA from State and local funds for free public education for the preceding year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding year, unless specifically waived by ED.

Beginning with the Federal fiscal year 1998, an LEA's expenditures from State and local funds for free public education include expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities. They do not include the following expenditures: (1) any expenditures for community services, capital outlay, debt service and supplementary expenses as a result of a Presidentially declared disaster; and (2) any expenditures made from funds provided by the Federal government.

For fiscal years prior to 1998, SEAs were allowed to define the types of expenditures that could be included in the calculation for programs other than Title I, Part A.

If an LEA fails to maintain fiscal effort, the SEA must reduce the amount of the allocation of funds under an applicable program in any fiscal year in the exact proportion by which the LEA fails to maintain effort by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the LEA) (Section 14501 of ESEA (20 USC 8891)).

In some States, the SEA prepares the calculation from information provided by the LEA. In other States, the LEAs prepare their own calculation. The audit procedures contained in the Part 3, Section G.2.1, *Level of Effort - Maintenance of Effort* should be adapted to fit the circumstances. For example, if auditing the LEA and the LEA does the calculations, the auditor should perform steps a, b, and c. If auditing the LEA and the SEA does the calculation, the auditor should perform step c for the amounts reported to the SEA. If auditing the SEA and the SEA performs the calculation, the auditor should perform steps a and b and amend step c to trace amounts to the LEA reports. If auditing the SEA and the LEA performs the calculation, the auditor should perform step a and, if the requirement was not met, determine if the funding was reduced appropriately.

2.2 Level of Effort - Supplement Not Supplant (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); and CSR (LEAs only) (84.340).

General - An SEA and LEA may use program funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of the Federal funds, be made available from non-Federal sources for the education of participating students. In no case may an LEA use Federal program funds to supplant funds from non-Federal sources (Title I, Part A, Section 1120A(b) (20 USC 6322(b)); Title I, Part C Section 1304(c)(2) (20 USC 6394(c)(2)); Title VI of ESEA, Section 6401(b) (20 USC 7371(b)); and Title VII of ESEA, Section 7116(b)(4) (20 USC 7426(h)(4)).

In the following instances, it is presumed that supplanting has occurred:

- The SEA or LEA used Federal funds (except Bilingual) to provide services that the SEA or LEA was required to make available under other Federal, State or local laws.
- The SEA or LEA used Federal funds to provide services that the SEA or LEA provided with non-Federal funds in the prior year.
- The SEA or LEA used Title I, Part A or MEP funds to provide services for participating children that the SEA or LEA provided with non-Federal funds for nonparticipating children.

These presumptions are rebuttable if the SEA or LEA can demonstrate that it would not have provided the services in question with non-Federal funds had the Federal funds not been available.

Schoolwide Program - In a Title I schoolwide program, a school is not required to provide supplemental services to identified children. A school operating a schoolwide program does not have to: (1) show that Federal funds used within the school are paying for additional services that would not otherwise be provided; (2) demonstrate that Federal funds are used only for specific target populations; or (3) separately track Federal program funds once they reach the school. Such a school, however, is required to use funds available under Title I and under any other Federal programs that are combined to support its schoolwide program to supplement the total amount of funds that would, in the absence of the Federal funds, be made available from non-Federal sources for that school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency (Title I, Part A, Section 1114 (20 USC 6314); MEP, Section 1306(b)(3) of ESEA (20 USC 6396(b)(3)); 34 CFR section 200.8; and 60 FR 49174).

Title I, Part A or MEP - An SEA and LEA may exclude, from determinations of compliance with the supplement, not supplant requirement, supplemental State or

local funds spent in any school attendance area or school for programs that meet the requirements of section 1114 (Schoolwide Programs) or section 1115 (Targeted Assisted Schools) of the ESEA (Title I, Part A of ESEA, Section 1120A(d) (20 USC 6322(d)); 34 CFR section 200.63).

Bilingual - This supplement not supplant requirement does not preclude an LEA from using Bilingual program funds for activities carried out under a Federal or State court order respecting services to be provided to limited English proficient (LEP) children, or to carry out a plan approved by the Secretary as adequate under Title VI of the Civil Rights Act of 1964 with respect to services to be provided to LEP children (Title VII, Section 7116(h)(4) of ESEA (20 USC 7426(h)(4))).

3. Earmarking

a. *Administration (SEAs)*

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010) and MEP (84.011).

An SEA may reserve for the administration of Title I programs up to one percent from each of the amounts allocated to the State under Title I, Part A (except Capital Expenses under section 1002(e) and School Improvement funds under section 1002(f)), and Part C (MEP) or \$400,000, whichever is greater. An SEA may reserve less than one percent from each of Parts A, C, and D (Subpart 1). Moreover, an SEA does not need to reserve the same percentage from each part. However, the amounts reserved from Part A Basic, Concentration, and, when funded, Targeted Grants must be proportionate. For any SEA reserving \$400,000, the amount taken from each of Title I, Parts A, C, and D (Subpart 1) must be proportionate. An SEA is not required to use the same proportion of funds reserved from Parts A, C, and D for administrative activities related to those Parts.

As explained in Section III.A.1, *Consolidation of administrative funds*, the amounts reserved above may be consolidated with State administrative funds available under other applicable programs (Title I, Section 1603 of ESEA (20 USC 6513); See also 34 CFR sections 200.60(a) and 200.61).

b. *Use of unneeded program funds (LEAs)*

ESEA programs in this Supplement to which this section applies are: MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); Title VI (84.298); TLCF (84.318); and CSR (84.340).

With the approval of its SEA, an LEA that determines for any fiscal year that funds under an applicable program (MEP, Eisenhower, SDFSCA,

Title VI; TLCF; and CSR) are not needed for the purpose of that applicable program may use five percent or less of the total amount of the funds received under that applicable program for the purpose of another applicable program (Section 14206(a) of ESEA (20 USC 8826(a))).

c. *Coordinated services projects (LEAs)*

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010), MEP (84.011), SDFSCA (84.186), Eisenhower (84.281), PCSP (84.282), 21st Century (84.287), Title VI (84.298), TLCF (84.318), CSR (84.340).

In addition to using funds for specific purposes outlined in each program's statute and regulations, an LEA, school, or group of schools if there is no governing LEA, upon application to and approval by ED, may use a total of not more than five percent of its funds received under ESEA to develop, implement, or expand a coordinated services project (Title XI and Section 14206(b) of ESEA (20 USC 8401 and 8826(b))).

H. Period of Availability of Federal Funds (All grantees)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (including the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); PCSP (84.282); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); and CSR (84.340).

This section also applies to Adult Education (84.002); Goals 2000 (84.276); IDEA (84.027 and 84.173); Vocational Education (84.048); and IDEA, Part C (84.181).

All ESEA and other programs listed above except Bilingual, PCSP, and subrecipients under Vocational Education - LEAs and SEAs must obligate funds during the 27 months, extending from July 1 of the fiscal year for which the funds were appropriated through September 30 of the second following fiscal year. This maximum period includes a 15 month period of initial availability plus a 12 month period for carryover. For example, funds from the fiscal year (FY) 1995 appropriation initially became available on July 1, 1995 and can be obligated by the grantee and subgrantee through September 30, 1997. (Section 421(b) of GEPA (20 USC 1225(b)); 34 CFR sections 76.704 through 76.707).

Title I, Part A program - An LEA that receives \$50,000 or more in Title I, Part A funds cannot carryover beyond the initial 15 months of availability more than 15 percent of the Title I, Part A funds. An SEA may grant a waiver for the percentage limitation once every three years if the request is reasonable and necessary. An SEA may also grant a waiver in any fiscal year in which supplemental appropriations for Title I become available for obligation. (Section 1127 of ESEA (20 USC 6338)).

SDFSCA program - An LEA that receives SDFSCA funding cannot carryover beyond the initial 15 months of availability more than 25 percent of SDFSCA State Grant funds. An

SEA may waive the percentage limitation for good cause for additional carryover by the LEA (Section 4113)(f)(2) of ESEA (20 USC 7113)).

Bilingual, PCSP and CSR programs - The recipient must obligate funds from a grant during the period for which the funds are available for obligation as set forth in the grant award document. Recipients must maintain documentation to demonstrate that the obligation occurred during the period of availability and was charged to an appropriate year's grant funds. If obligations occur outside of the period of availability, the funds are not timely obligated and must be returned. However, under the "expanded authorities" provisions grantees are permitted to :

- Extend grants automatically at the end of a project period for up to one year without prior approval (with some exceptions);
- Carry funds over from one budget period to the next;
- Obligate funds up to 90 days before the effective date of a budget period without prior approval; and
- Transfer funds among budget categories without prior approval, except for a limited number of specific cases.

Further explanation of these expanded authorities may be obtained from the Grants Policy and Oversight Staff at <http://ocfo.ed.gov/grntinfo/gposbul/gpos19.htm> (34 CFR Sections 75.261, 75.253(c), 75.263, and 75.264).

Vocational Education program - In any academic year that a subrecipient does not obligate all of the amounts it is allocated under the Secondary, and Postsecondary and Adult Vocational Education programs for that year, it must return the unobligated amounts to the State to be reallocated under the Secondary, Postsecondary, and Adult Vocational Education Program, as applicable (Perkins III, section 133(b); 20 USC 2353(b)).

Consolidated administrative funds and coordinated services projects - Consolidated administrative funds and funds used in coordinated services projects must be obligated within the period of availability of the program that the funds came from. Because expenditures in a consolidated administrative fund or a coordinated services project are not accounted for by specific Federal programs, an SEA or LEA may use a first-in, first-out method for determining when funds were obligated, may attribute costs in proportion to the dollars provided, or may use another reasonable method.

Definition of Obligation - An obligation is not necessarily a liability in accordance with Generally Accepted Accounting Principles. When an obligation occurs (is made) depends on the type of property or services which the obligation is for:

IF AN OBLIGATION IS FOR --	THE OBLIGATION IS MADE --
(a) Acquisition of real or personal property.	On the date on which the State or subgrantee makes a binding written commitment to acquire the property.
(b) Personal services by an employee of the State or subgrantee.	When the services are performed.
(c) Personal services by a contractor who is not an employee of the State or subgrantee.	On the date on which the State or subgrantee makes a binding written commitment to obtain the services.
(d) Performance of work other than personal services.	On the date on which the State or subgrantee makes a binding written commitment to obtain the work.
(e) Public utility services.	When the State or subgrantee receives the services.
(f) Travel.	When the travel is taken.
(g) Rental of real or personal property.	When the State or subgrantee uses the property.
(h) A pre-agreement cost that was properly approved by the State under the applicable cost principles.	On the first day of the subgrant period.

The act of an SEA or other grantee awarding Federal funds to an LEA or other eligible entity within a State does not constitute a final obligation. An SEA or other grantee may not reallocate grant funds from one subrecipient to another after the period of availability (GEPA Section 421(b) (20 USC 1225(b)); 34 CFR sections 76.704 through 76.707).

If a grantee or subgrantee uses a different accounting system or accounting principles from one year to the next, it shall demonstrate that the system or principle was not improperly changed to avoid returning funds which were not timely obligated. A grantee or subgrantee may not make accounting adjustments after the period of availability in an attempt to offset audit disallowances. The disallowed costs must be refunded.

L. Reporting

1. Financial Reporting

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (including the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); PCSP (84.282); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Adult Education (84.002); Goals 2000 (84.276); IDEA (84.027 and 84.173); and IDEA, PART C (84.181).

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Only grantees placed on reimbursement are required to complete this form to request payment of grant award funds. The requirement to use this form is imposed on an individual recipient basis.
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. LEAs and other subrecipients are generally required to report financial information to the pass-through entity. These reports should be tested during audits of LEAs.

2. Performance Reporting - Not Applicable

3. Special Reporting

State Per Pupil Expenditure (SPPE) Data (OMB No. 1850-0067) (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); and MEP (84.011).

As described in II. Program Procedures under *General and Program-Specific Cross-cutting Requirements*, this requirement is a general cross-cutting requirement that need only be tested once to cover all major programs to which it applies.

Each year, an SEA must submit its average State per pupil expenditure (SPPE) data to the National Center for Education Statistics. These SPPE data are used by ED to make allocations under several ESEA programs, including Title I, Part A, and MEP. SPPE data are reported on the National Public Education Finance

Survey. SPPE data comprise the State's annual current expenditures for free public education, less certain designated exclusions, divided by the State's average daily attendance.

LEAs must submit data to the SEA for the SEA's report. The SEA determines the format of the data submissions.

Current expenditures to be included are those for free public education, including administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities. Current expenditures to be excluded are those for community services, capital outlay, debt service, and expenditures from funds received under Title I and Title VI of ESEA.

To determine its expenditures under Title I and VI of ESEA in a schoolwide program, an LEA could calculate the percentage of funds that Title I and Title VI contributed to the schoolwide program and then apply those percentages to the total expenditures in the schoolwide program. Other reasonable methods may also be used (Section 14101(11) of ESEA (20 USC 8801)).

Except when provided otherwise by State law, average daily attendance generally means the aggregate number of days of attendance of all students during a school year divided by the number of days school is in session during such school year. For purposes of ESEA, average daily membership (or similar data) can be used in place of average daily attendance in States that provide State aid to LEAs on the basis of average daily membership or such other data. When an LEA in which a child resides makes a tuition or other payment for the free public education of the child in a school of another LEA, the child is considered to be in attendance at the school of the LEA making the payment, and not at the school of the LEA receiving the payment. Similarly, when an LEA makes a tuition payment to a private school or to a public school of another LEA for a child with disabilities, the child is considered to be in attendance at the school of the LEA making the payment.

N. Special Tests and Provisions

1. Participation of Private School Children (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318) and REP(84.338).

Depending on how the SEA/LEA implements requirements for the provision of equitable participation of private school children, this requirement may be tested on a general or program-specific basis (as described in II. Program Procedures under General and Program-Specific Cross-cutting Requirements).

Compliance Requirements - An SEA, LEA, or any other educational service agency (or consortium of such agencies) receiving financial assistance under an applicable program must provide eligible private school children and their teachers or other educational personnel with equitable services or other benefits under these programs. Before an agency or consortium makes any decision that affects the opportunity of eligible private school children, teachers, and other educational personnel to participate, the agency or consortium must engage in timely and meaningful consultation with private school officials (Section 14503 of ESEA (20 USC 8893); Title I, Section 1120 of ESEA (20 USC 6321); 34 CFR sections 200.10 through 200.13; and Title VI, Section 6402 (20 USC 7372)).

If an LEA uses funds to concentrate services on a particular "group, attendance area, or grade or age level," private school children in that "group, attendance area, grade or age level" are to be assured equitable participation in projects.

Under Title I, Part A (i.e., CFDA 84.010) funds must be allocated to each participating public school attendance area on the basis of the total number of children from low-income families residing in that area. In calculating the total number of children from low-income families, the calculation must include children from low-income families who attend private schools. An LEA uses the funds generated by private school children from low-income families to provide services to eligible private school children.(20 USC 6313(c); 34 CFR 200.28)

For programs other than Title 1, Part A (i.e., CFDA 84.011; 84.186; 84.281; 84.288, 84.290, and 84.291; 84.298; 84.318; and 84.338), expenditures for services and benefits to eligible private school children and their teachers and other educational personnel must be equal on a per-pupil basis to the expenditures for participating public school children and their teachers and other educational personnel, taking into account the number and educational needs of the children, teachers and other educational personnel to be served. (20 USC 8893; 34 CFR 299.7)

Audit Objective - Determine whether (1) the LEA, SEA, or other agency receiving ESEA funds has conducted timely consultation with private school officials to determine the kind of educational services to provide to eligible private school children, (2) the planned services were provided, and (3) the required amount was used for private school children.

Suggested Audit Procedures (LEA/SEA)

- a. Verify, by reviewing minutes of meetings and other appropriate documents, that the SEA or LEA conducted timely consultation with private school officials in making their determinations and set aside the required amount for private school children.
- b. Review program expenditure and other records to verify that educational services that were planned were provided.

- c. For Title 1, Part A, verify that the per pupil allocation (PPA) generated by private school children from low-income families living in participating public school attendance areas is equal to the PPA generated by public school children from low-income families living in the same attendance area.
- d. For programs other than Title I, Part A, verify that expenditures are equal on a per-pupil basis for public and private school students, teachers and other educational personnel, taking into consideration their numbers and needs.

2. Schoolwide Programs (LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (including the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Goals 2000 (84.276); IDEA (84.027 and 84.173) and Vocational Education (84.048).

As described in II. Program Procedures under *General and Program-Specific Cross-cutting Requirements*, this requirement is a general cross-cutting requirement that only needs to be tested once to cover all major programs to which it applies.

Compliance Requirement - A school participating under Title I, Part A may, in consultation with its LEA, use its Title I, Part A funds, along with funds provided from the above-identified programs and other Federal education funds, to upgrade the school's entire educational program in a schoolwide program. To qualify for fiscal year 1996-97 and subsequent years, at least 50 percent of the children enrolled in the school or residing in the school attendance area for the initial year of the schoolwide program must be from low-income families. The LEA is required to maintain records to demonstrate compliance with this requirement. To operate a schoolwide program, a school must develop, in consultation with the LEA and its school support team or other technical assistance provider, a comprehensive plan to upgrade its total instructional program.

Each schoolwide program must include a number of specific components, which must be described in the comprehensive plan including: (1) a comprehensive needs assessment of the entire school; (2) schoolwide reform strategies; (3) instruction by highly qualified professional staff; (4) professional development for teachers and other staff; (5) strategies to increase parental involvement; (6) plans for assisting preschool children transitioning from early childhood programs to local elementary school programs; (7) measures to include teachers in the decisions about the use of assessments; and (8) activities for providing effective, timely additional assistance to students experiencing difficulty in mastering high standards.

In combining funds, a schoolwide program school must also ensure that its schoolwide program addresses the needs of children who are members of the target population of any Federal program that is included in the schoolwide program. When combining funds or services received under MEP, a schoolwide program must: (1) in consultation with parents of migratory children or organizations representing those parents, address the identified needs of migratory children that result from the effects of their migratory lifestyle or are needed to permit migratory children to participate effectively in schools; and (2) document that services addressing those needs have been provided. Similarly, a schoolwide program must have the approval of the Indian parent advisory committee established in section 9114(c)(4) of ESEA (20 USC 7814(c)(4)) before funds received under the Title IX, Part A, Subpart 1 Indian Education program can be combined (Sections 1114 and 1306(b) of ESEA (20 USC 6314 and 6396(b)); 34 CFR sections 76.731, 200.8; 60 FR 49174).

Audit Objectives (LEA) - Determine whether (1) the schools operating schoolwide programs were eligible to do so; and (2) the schoolwide programs were based on a comprehensive plan that included the required elements.

Suggested Audit Procedures (LEA)

- a. For schools operating a schoolwide program, review records and ascertain if the schools met the poverty eligibility requirements.
- b. Review the schoolwide plan and ascertain if it included the required components described above.
- c. Review documentation to support:
 - (1) Consultation with parents including, when MEP funds are included, the parents of migratory children or organizations representing those parents; and, when Title IX, Part A, Subpart 1 (Indian Education) funds are included, approval by the Indian parent advisory committee.
 - (2) If MEP funds are combined in the schoolwide program, that services addressing the identified needs of migratory children were provided by the schoolwide program.

3. Comparability (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010) and MEP (84.011).

As described in II. Program Procedures under *General and Program-Specific Cross-cutting Requirements*, this requirement is a general cross-cutting requirement that need only be tested once to cover all major programs to which it applies.

Compliance Requirement - An LEA may receive funds under Title I, Part A and the MEP (Title I, Part C) only if State and local funds will be used in participating schools to provide services that, taken as a whole, are at least comparable to services that the LEA is providing in schools not receiving Title I, Part A or MEP funds. An LEA is considered to have met the statutory comparability requirements if it has implemented (1) an LEA-wide salary schedule; (2) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and (3) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies. An LEA may also use other measures to determine comparability, such as comparing the average number of students per instructional staff or the average staff salary per student in each school receiving Title I, Part A or MEP funds with those in schools that do not receive Title I, Part A or MEP funds. If all schools are served by Title I, Part A or MEP, an LEA must use State and local funds to provide services that, taken as a whole, are substantially comparable in each school. Determinations may be made on either a district-wide or grade-span basis.

An LEA may exclude schools with fewer than 100 students from its comparability determinations. The comparability requirement does not apply to an LEA that has only one school for each grade span. An LEA may exclude from determinations of compliance with this requirement State and local funds expended for (1) bilingual education for children with limited English proficiency (LEP); (2) excess costs of providing services to children with disabilities as determined by the LEA; and (3) supplemental State or local funds for programs that meet the intent and purposes of Title I, Part A or MEP (Title I, Section 1120A(c)-(d) of ESEA (20 USC 6322(c)-(d)); 34 CFR section 200.63).

Each LEA must develop procedures for complying with the comparability requirements and implement the procedures annually. They must maintain records that are updated biennially documenting compliance with the comparability requirements. The SEA, however, is ultimately responsible for ensuring that LEAs remain in compliance with the comparability requirement (Title I, Section 1120A(c) of ESEA (20 USC 6322(c))).

Audit Objective (SEA) - Determine whether the SEA is determining if LEAs are complying with the comparability requirements.

Suggested Audit Procedure (SEA)

- a. For a sample of LEAs, review SEA records that document SEA review of LEA compliance with the comparability requirements.

Audit Objective (LEA) - Determine whether the LEA has developed procedures for complying with the comparability requirements and maintained records that are updated at least biennially documenting compliance with the comparability requirements.

Suggested Audit Procedures (LEA)

- a. Through inquiry and review, ascertain if the LEA has developed procedures and measures for complying with the comparability requirements.
- b. Review LEA comparability documentation to ascertain (1) if it has been updated within two years of the end of the audit period and (2) that it documents compliance with the comparability requirements.
- c. Test comparability data to supporting records.

IV. OTHER INFORMATION**Guidance on Type A Program Determination and Schedule of Expenditure of Federal Awards (LEA)****A. Use of Unneeded Program Funds**

ESEA programs in this Supplement to which this section applies are: MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); Title VI (84.298); TLCF (84.318); and CSR (84.340).

Expenditures of unneeded program funds transferred from another program should be included in the audit universe and total expenditures of the receiving program when determining Type A programs. They should not be included in the expenditures of the transferring program. On the Schedule of Expenditure of Federal Awards, the amount of unneeded program funds expended should be included in the total expenditures for the receiving program. A footnote showing the amount of funds transferred between programs is encouraged.

B. Coordinated Services Projects

This section applies to all ESEA programs in this Supplement: Title I, Part A (84.010), MEP (84.011), SDFSCA (84.186), Eisenhower (84.281), PCSP (84.282), 21st Century (84.287), Bilingual (84.288, 84.290, 84.291), Title VI (84.298), TLCF (84.318), CSR (84.340).

Since coordinated services projects are not a separate Federal program as defined by OMB Circular A-133, amounts expended for coordinated services projects would be included in total expenditures and the audit universe for the contributing programs when determining Type A programs and in the Schedule of Expenditure of Federal Awards. A footnote showing by program the amounts used in coordinated services projects is encouraged.

C. Schoolwide Programs

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (including the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Goals 2000 (84.276); IDEA (84.027 and 84.173) and Vocational Education (84.048).

Since schoolwide programs are not a separate Federal program as defined in OMB Circular A-133, amounts used in schoolwide programs should be included in the total expenditures of the program contributing the funds when determining Type A Programs and in the Schedule of Expenditure of Federal Awards. A footnote showing by program amounts used in schoolwide programs is encouraged.

DEPARTMENT OF EDUCATION**CFDA 84.002 ADULT EDUCATION--STATE GRANT PROGRAM****I. PROGRAM OBJECTIVES**

The Adult Education and Family Literacy State Grant program provides grants to eligible agencies to provide adult education and literacy services. These grants help adults become literate and obtain the knowledge and skills necessary for employment; obtain the educational skills necessary to become full partners in the educational development of their children; and complete a secondary school education.

II. PROGRAM PROCEDURES

Funds are provided to the State eligible agency each year in accordance with a statutory formula. Eligible agencies develop a 5-year State plan that is approved by the Secretary which may be revised when substantial changes in conditions occur. Local activities include services or instruction in one or more of the following categories: adult education and literacy services, including workplace literacy services; family literacy services; and English literacy programs.

Eligible providers include a local educational agency; a community-based organization of demonstrated effectiveness; a volunteer literacy organization of demonstrated effectiveness; an institution of higher education; a public or private non-profit agency; a library; a public housing authority; any other nonprofit institution that has the ability to provide literacy services to adults and families; and a consortium of the agencies, organizations, institutions, libraries, or authorities described above.

Source of Governing Requirements

The program is authorized by the Adult Education and Family Literacy Act (the Act), Title II of the Workforce Investment Act of 1998 (Pub. L. No. 105-220) (20 USC 9201 *et seq.*).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple Department of Education (ED) programs are discussed once in the ED Cross-Cutting Section of this supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

The eligible agency shall require that each eligible provider receiving a grant or contract establish or operate one or more programs that provide services or instruction in one or more of the following categories: (1) Adult education and literacy services, including workplace literacy services, (2) Family literacy services; and (3) English literacy programs. Adults include individuals who are at least 16 years of age, who are not enrolled or required to be enrolled in secondary school under State law; and who lack sufficient mastery of basic educational skills, do not have a secondary school diploma or its recognized equivalent, or are unable to speak, read, or write the English language (Pub. L. No. 105-220 (sections 231 and 203 of the Act) (20 USC 9241 and 9202(1))).

1. *State-Level Activities* - State eligible agencies may use funds for the following: (also see G.3. Earmarking)
 - a. Subgrants to eligible providers
 - b. State administrative costs including the development, and implementation of the State plan; consultation with other appropriate agencies in the development and implementation of activities assisted under the Act; and coordination and nonduplication with related Federal and State programs (section 221 of the Act) (20 USC 9221).
 - c. State leadership activities such as professional development programs, technical assistance, support of State literacy resource centers, and monitoring and evaluation of adult education and literacy activities (section 223(a) of the Act (20 USC 9223(a))).
2. *Subrecipient Activities*
 - a. Allowable activities are described in the eligible provider's approved application. Generally, eligible providers must establish or operate one or more programs that provide services or instruction in one or more of the following categories: (1) Adult education and literacy services, including workplace literacy services, (2) Family literacy services; and (3) English literacy programs. Adults include individuals who are at least 16 years of age, who are not enrolled or required to be enrolled in secondary school under State law; and who lack sufficient mastery of basic educational skills, do not have a secondary school diploma or its recognized equivalent, or are unable to speak, read, or write the English language. Funds can also be used for administrative costs. (See G.3. Earmarking for limitation) (Pub. L. No. 105-220 (sections 231, 232, 234 and 203 of the Act) (20 USC 9241, 9242, 9243 and 9202(1))).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking**1. Matching**

- a. Each State eligible agency providing adult education and literacy services shall provide a non-Federal contribution of at least 25 percent of the total amount of funds expended for adult education and literacy activities in the State (section 222(b) of the Act) (20 USC 9222(b)).
- b. An eligible agency serving an outlying area shall provide a non-Federal contribution equal to 12 percent of the total amount of funds for adult education and literacy activities in the outlying area, unless the Secretary allows a smaller non-Federal contribution (section 222 (b) of the Act) (20 USC 9222(b)).
- c. An eligible agency's non-Federal contribution may be provided in cash or in-kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of the Act (section 222(b) of the Act) (20 USC 9222(b)).

2.1 Level of Effort - *Maintenance of Effort*

An eligible agency may receive funds for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the second preceding fiscal year, was not less than 90 percent of the fiscal effort per student or the aggregate expenditures of the eligible agency for adult education and literacy activities, in the third preceding fiscal year (section 241(b) of the Act) (20 USC 9251(b)).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable**3. Earmarking**

- a. *State Eligible Agency* - The following earmarking requirements are for each yearly grant award and must be met within the period of its availability (generally 27 months) (34 CFR sections 76.703 through 76.710):
 - (1) Grants and contracts for eligible providers shall not be less than 82.5 percent of the eligible agency's grant funds (section 222(a)(1) (20 USC 9222(a)(1))).

- (2) Correction education and education for other institutionalized individuals shall not be more than 10 percent of the 82.5 percent mentioned above (section 222(a)(1) of the Act) (20 USC 9222(a)(1)).
 - (3) State leadership activities under section 223 of the Act shall not exceed 12.5 percent of the grant funds (section 222(a)(2) of the Act) (20 USC 9222(a)(2)).
 - (4) Necessary and reasonable administrative expenses of the eligible agency shall not be more than five percent of the grant funds, or \$65,000, whichever is greater (section 222(a)(3) of the Act) (20 USC 9222(a)(3)).
- b. *Subrecipients* - Generally, subrecipients may use up to five percent of their funds for noninstructional costs, such as administration of local programs. In cases where the five percent limit is too restrictive, the eligible provider shall negotiate with the eligible agency to determine the adequate level of funds for noninstructional purposes (section 233 of the Act) (20 USC 9243).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF EDUCATION**CFDA 84.010 TITLE I GRANTS TO LOCAL EDUCATIONAL AGENCIES (LEAs) (Title I, Part A of ESEA)****I. PROGRAM OBJECTIVES**

The objective of Title I, Part A of the Elementary and Secondary Education Act (ESEA), as amended by the Improving America's Schools Act (IASA), is to improve the teaching and learning of children who are at risk of not meeting challenging academic standards and who reside in areas with high concentrations of children from low-income families.

II. PROGRAM PROCEDURES

The Department of Education (ED) provides Title I, Part A funds through each State Educational Agency (SEA) to local educational agencies (LEAs) through a statutory formula based primarily on the number of children ages 5 through 17 from low-income families. This number is augmented by annually collected counts of children ages 5 through 17 in foster homes, locally-operated institutions for neglected or delinquent children, and families above poverty that receive assistance under Temporary Assistance to Needy Families (TANF) and adjusted to account for the cost of education in each State. To receive funds, an SEA must submit to ED for approval either: (1) an individual State plan as provided in Section 1111 of the ESEA (20 USC 6311), or (2) a consolidated plan that includes Part A, in accordance with Section 14302 of the ESEA (20 USC 8852). The individual or consolidated plan, after approval by ED, remains in effect for the duration of the State's participation in Title I, Part A. The plan must be updated to reflect substantive changes.

To receive Title I funds, LEAs must have on file with the SEA an approved plan that includes descriptions of the general nature of services to be provided, how program services will be coordinated with the LEA's regular program of instruction, additional LEA assessments, if any, used to gauge program outcomes, and strategies to be used to provide professional development. An LEA may also include Part A as part of a consolidated application submitted to the SEA under Section 14305 of the ESEA (20 USC 8855).

LEAs allocate Title I funds to eligible school attendance areas based on the number of children from low-income families residing within the attendance area. A school at or above 50 percent poverty may use its Part A funds, along with other Federal, State, and local funds, to operate a schoolwide program to upgrade the instructional program in the whole school. Otherwise, a school operates a targeted assistance program in which the school identifies students who are failing, or most at risk of failing, to meet the State's challenging performance standards and who have the greatest need. The school then designs, in consultation with parents, staff, and the LEA, an instructional program to meet the needs of those students.

Source of Governing Requirements

This program is authorized by Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA)(20 USC 6301 through 6338, 6511 through 6514). Program regulations are found at 34 CFR part 200. The Education Department General Administrative Regulations (EDGAR) at 34 CFR parts 76, 77, 81, 82, and 99 also apply to this program, as do certain requirements of 34 CFR part 299 (General Provisions).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeated in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. LEAs (Targeted assistance programs only. See special tests and provisions for schoolwide programs.)

In a targeted assistance school, funds available under Part A may be used only for programs that are designed to help participating children meet the State's student performance standards expected of all children. Allowable activities in these schools include, but are not limited to, instructional programs, counseling, mentoring, other pupil services, college and career awareness and preparation, services to prepare students for the transition from school to work, services to assist preschool children in the transition to elementary school programs, parental involvement activities, and professional staff development. If health, nutrition, and other social services are not otherwise available from other sources to participating children, Part A funds may be used as a last resort to provide such services. The LEA's plan will provide a description of the general nature of the services to be provided with Part A funds. However, each Title I school determines the actual program it will provide (Title I, Section 1115 of ESEA (20 USC 6315)).

2. SEAs

SEAs can use funds to provide subgrants to LEAs, for State administration, and for program improvement activities in accordance with the State plan (Title I, Sections 1003, 1111, 1117 and 1603 of ESEA) (20 USC 6303, 6311, 6317, and 6513).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility**1. Eligibility for Individuals**

Eligible Children (LEA targeted assistance programs only)

Title I, Part A, funds are to be used to provide services and benefits to eligible children residing or enrolled in eligible school attendance areas. Once funds are allocated to eligible school attendance areas (see E.2.a and E.2.b. below), a school operating a targeted assistance program must use Title I funds only for programs that are designed to meet the needs of children identified by the school as failing, or most at risk of failing, to meet the State's challenging student performance standards. In general, eligible children are identified on the basis of multiple, educationally-related, objective criteria established by the LEA and supplemented by the school. Children who are economically disadvantaged, children with disabilities, migrant children, and limited English proficient (LEP) children are eligible for Part A services on the same basis as other children who are selected for services. In addition, certain categories of children are considered at risk of failing to meet the State's student performance standards and are thus eligible for Title I services because of their status. Such children include: children who are homeless; children who participated in a Head Start or Even Start program at any time in the two preceding years; children who received services under a program for youth who are neglected, delinquent, or at risk of dropping out under Title I, Part D (or its predecessor authority) at any time in the two preceding years; and children who are in a local institution for neglected or delinquent children or attending a community day program. From the pool of eligible children, a targeted assistance school selects those children who have the greatest need for special assistance to receive Part A services (Title I, Section 1115 of ESEA (20 USC 6315)).

2. Eligibility for Group of Individuals or Area of Service Delivery

- a. *School Attendance Areas or Schools (LEAs with either schoolwide programs or targeted assistance programs)*

An LEA must determine which school attendance areas are eligible to participate in Part A. A school attendance area is generally eligible to participate if the percentage of children from low-income families is at least as high as the percentage of children from low-income families in the LEA as a whole or at least 35 percent poverty. An LEA may also designate and serve a school in an ineligible attendance area if the percentage of children from low-income families enrolled in that school is equal to or greater than the percentage of such children in a participating school attendance area. When determining eligibility, an LEA must select a poverty measure from among the following data sources: (1) the number of children ages 5-17 in poverty counted in the most recent census; (2) the number of children eligible for free and reduced priced lunches; (3) the number of children in families receiving TANF; (4) the number of children eligible to receive Medicaid assistance; or (5) a composite of these data sources. The LEA must use that measure consistently across the district to rank all its school attendance areas according to their percentage of poverty.

An LEA must serve eligible schools or attendance areas in rank order according to their percentage of poverty. An LEA must serve those areas or schools above 75 percent poverty, including any middle or high schools, before it serves any with a poverty percentage below 75 percent. After an LEA has served all areas and schools with a poverty rate above 75 percent, the LEA may serve lower-poverty areas and schools either by continuing with the district-wide ranking or by ranking its schools below 75 percent poverty according to grade-span grouping (e.g., K-6, 7-9, 10-12). If an LEA ranks by grade span, the LEA may use the district-wide poverty average or the poverty average for the respective grade span grouping.

An LEA may elect not to serve an eligible area or school that has a higher percentage of children from low-income families if: (1) the school meets the Title I comparability requirements; (2) the school is receiving supplemental State or local funds that are spent according to the requirements in sections 1114 or 1115 of Title I; and (3) the supplemental State and local funds expended in the area or school equal or exceed the amount that would be provided under Part A. An LEA with an enrollment of less than 1000 students or with only one school per grade span is not required to rank its school attendance areas (Title I, Section 1113(a)-(b) of ESEA (20 USC 6313(a)-(b)); 34 CFR section 200.28(a) (3)).

- b. *Allocating funds to eligible school attendance areas and schools: (LEAs with either schoolwide programs or targeted assistance programs)*

An LEA must allocate Part A funds to each participating school attendance area or school, in rank order, on the basis of the **total** number of children from low-income families residing in the area or attending the school. In calculating the total number of children from low-income families, the LEA must include children from low-income families who reside in a participating area and attend private schools, using the same poverty data, if available, as the LEA uses to count public school children. If the same data are not available, the LEA may use comparable data. If complete actual poverty data are not available on private school children, an LEA may extrapolate, from actual data on a representative sample of private school children, the number of children from low-income families who attend private schools. An LEA may also correlate sources of data. If an LEA selects a public school to participate on the basis of enrollment, rather than because it serves an eligible school attendance area, the LEA must, in consultation with private school officials, determine an equitable way to count poor private school children in order to calculate the amount of Title I funds available to serve private school children.

If an LEA serves any attendance area with less than a 35 percent poverty rate, the LEA must allocate to **all** its participating areas an amount per poor child that equals at least 125 percent of the LEA's Part A allocation per poor child. (An LEA's allocation per poor child is the total LEA allocation under subpart 2 of Part A divided by the number of poor children in the LEA according to the poverty measure selected by the LEA to identify eligible school attendance areas. The LEA then multiplies this per-child amount by 125 percent.) If an LEA serves only areas with a poverty rate greater than 35 percent, the LEA must allocate funds, in rank order, on the basis of the total number of poor children in each area or school, but is not required to allocate a per-pupil amount of at least 125 percent. An LEA may not allocate a higher amount per poor child to areas or schools with lower percentages of poverty than to areas with higher percentages. If an LEA serves areas or schools below 75 percent poverty by grade span groupings, the LEA may allocate different amounts per poor child for different grade span groupings as long as those amounts do not exceed the amount per poor child allocated to any area or school above 75 percent poverty. Amounts per poor child within grade spans may also vary as long as the LEA allocates higher amounts per poor child to higher poverty areas or schools within the grade span than it allocates to lower poverty areas or schools.

The LEA must reserve the amounts generated by poor private school children who reside in participating public school attendance areas to provide services to eligible private school children (Title I, Section 1113(c) of ESEA (20 USC 6313(c)); 34 CFR sections 200.27 and 200.28).

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort*

See ED Cross-Cutting Section.

2.2 Level of Effort - *Supplement Not Supplant*

See ED Cross-Cutting Section.

3. Earmarking (SEAs)

See ED Cross-Cutting Section.

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting

See ED Cross-Cutting Section.

N. Special Tests And Provisions

1. Participation of Private School Children

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

3. Comparability

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION**CFDA 84.011 MIGRANT EDUCATION - BASIC STATE GRANT PROGRAM
(Title I, Part C of ESEA)****I. PROGRAM OBJECTIVES**

The objectives of the Migrant Education - Basic State Grant Program (Migrant Education Program or MEP) are to: (1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves; (2) provide appropriate educational services (including support services) that address the special needs of migratory children in a coordinated and efficient manner; (3) ensure that migratory children have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet; (4) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors which inhibit the ability of migrant children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and, (5) ensure that migratory children benefit from State and local systemic reforms.

II. PROGRAM PROCEDURES

MEP funds are allocated to a State educational agency (SEA), under either an approved consolidated program plan or an approved individual program application, in order for the SEA to provide MEP services and activities either directly, or through subgrants to local operating agencies. Local operating agencies can be either local educational agencies (LEAs) or other public or nonprofit private agencies. Because an SEA may choose to provide MEP services directly or through a local operating agency, some of the suggested audit procedures will apply for an SEA or local operating agency, depending on which agency provides the services and where the records are maintained.

Source of Governing Requirements

This program is authorized by Title I, Part C of the Elementary and Secondary Education Act of 1965, as amended (ESEA)(20 USC 6391 through 6399). The Education Department General Administrative Regulations at 34 CFR parts 76, 77, 80, 82, and 85 apply to this program. Other requirements in 34 CFR part 200, subparts C (sections 200.40 through 200.45) and E (sections 200.60 through 200.65) and 34 CFR part 299 also apply.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the Department of Education (ED) Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. *SEAs* - SEAs may use funds to operate the program (directly or through contracts), make subgrants to LEA or other local operating agencies, and pay for State administration. In general, funds available under the MEP may be used only to: (1) identify eligible migratory children and their needs; and (2) provide educational and support services (including, but not limited to, preschool services, professional development, advocacy and outreach, parental involvement activities and the acquisition of equipment) that address the identified needs of the eligible children.

An SEA may also use MEP funds to carry out administrative activities that are unique to the program. These activities include, but are not limited to, statewide identification and recruitment of migratory children, interstate and intrastate program coordination, transfer of student records, collecting and using information to make subgrants, and direct supervision of instructional or support staff (Title I, Part C, Sections 1301, 1304(c) and 1306(b) of ESEA (20 USC 6392, 6394(c) and 6396(b)); 34 CFR section 200.41).

2. *LEA or Other Local Operating Agencies* - LEA or other local operating agencies use funds in accordance with the agreement with the SEA to (1) identify eligible migratory children and their needs; and (2) provide educational and support services that address the identified needs of the eligible children.

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
- 2.1 **Level of Effort - Maintenance of Effort** - Not Applicable
- 2.2 **Level of Effort - Supplement Not Supplant**

See ED Cross-Cutting Section.

3. Earmarking (SEAs)

See ED Cross-Cutting Section.

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *State Per Pupil Expenditure (SPPE) Data (OMB No 1850-0067)*
(SEAs/LEAs)

See ED Cross-Cutting Section.

- b. *Consolidated State Performance Report for State Formula Grant Programs Under the Elementary and Secondary Education Act and Goals 2000: Educate America Act (OMB No. 1810-0614)*

- (1) Table C-7, Part C, Count of Children Eligible for funding Purposes (SEAs)

The SEA is required for allocation purposes to assist the ED in determining the number of eligible migratory children who reside in the state, using such procedures as ED requires. Each SEA annually provides an unduplicated count of eligible migratory children in each of two categories: (1) children ages three through 21 who resided in the State for one or more days during the preceding September 1 - August 31; and (2) such children who were served one or more days in a migrant funded project conducted during either the summer term or an intersession period (i.e., when a year-round school is not in session). The SEA's report is based upon data submitted to it by the LEAs or other local operating agencies in the State.

- (2) Reporting the number of eligible migrant children to the SEA (LEAs or other local operating agencies and SEAs providing direct services)

The LEA or other local operating agencies and SEAs providing direct services must implement procedures, based on the eligibility documentation that they collect and maintain, to count and report eligible children in the two categories discussed in III.L.3.b.(1) above (Title I, Part C, Section 1304(c)(7) of ESEA (20 USC 6394(c)(7)); 34 CFR sections 76.730 and 76.731).

N. Special Tests and Provisions

1. Participation of Private School Children (SEAs/LEAs)

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

3. Comparability (SEAs/LEAs)

See ED Cross-Cutting Section.

4. Priority for Services

Compliance Requirement - SEAs and LEAs or other local operating agencies must give priority for MEP services to migratory children who are failing, or most at risk of failing, to meet the State's challenging content and performance standards, and whose education has been interrupted in the regular school year (Title I, Part C, Section 1304(d) of ESEA (20 USC 6394(d)).

Audit Objective (SEAs providing services directly and LEA or other local operating agencies) - Determine whether the SEA or LEA or other local operating agency gave priority in the provision of MEP services to those migratory children identified as failing, or most at risk of failing, to meet the State's challenging content and performance standards, and whose education has been interrupted in the regular school year (priority children). (Note: The auditor is not expected to test the SEA's or local operating agency's identification of a child as deserving priority.)

Suggested Audit Procedures (SEAs providing services directly and LEA or other local operating agencies)

- a. Review the SEA or LEA or other local operating agency's process for selecting children to receive MEP services to ascertain if it includes an identification of priority children. Because of the time of year in which the MEP program may

operate (e.g. in the summer), there may not be any children identified as priority children in which case suggested audit procedure b. below is not applicable.

- b. Select a sample of migratory children who were identified as priority children. Review program records to determine if these children were provided MEP services.

5. Targeting Funds (SEAs)

Compliance Requirement - SEAs may provide MEP services either directly, or through subgrants to LEA or other local operating agencies, including LEAs. In either case, in order to target program funds appropriately, the SEA is required to take into account the needs of the State's identified population of migratory children, and the degree to which those needs are not being met through other programs. In targeting MEP funds, SEAs must take into account the need to serve priority children and the needs of migratory children that result from the migratory lifestyle, such as educational disruption, failure or risk of failure to meet State content and performance standards, cultural or language barriers, social isolation, health-related problems, or other factors that stem from the migratory lifestyle or are needed to permit migratory children to participate effectively in school, as well as, the availability of other programs to address these needs (Title I, Part C, Sections 1301, 1304(b)(1), 1304(b)(6) and 1306(a) of ESEA (20 USC 6391, 6394(b)(6), 6396(a))).

Audit Objective (SEAs) - Determine whether the SEA's process to target MEP funds (whether or not through subgrants) takes into account current information on the need to serve priority children and the needs of the identified population of eligible migratory children throughout the State and the locality, and the degree to which those needs are not being met through other programs.

Suggested Audit Procedure(SEAs)

- a. Review the SEA's process to target MEP funds to ascertain if the process:
 - (1) Uses current information.
 - (2) Takes into account the needs of priority children and the degree to which the needs of the identified population of migratory children are not being met through other programs.

DEPARTMENT OF EDUCATION

CFDA 84.027 SPECIAL EDUCATION--GRANTS TO STATES (IDEA, Part B)
CFDA 84.173 SPECIAL EDUCATION--PRESCHOOL GRANTS (IDEA Preschool)

I. PROGRAM OBJECTIVES

The purposes of the Individuals with Disabilities Education Act (IDEA) are to: (1) ensure that all children with disabilities have available to them a free appropriate public education (FAPE) which emphasizes special education and related services designed to meet their unique needs; (2) ensure that the rights of children with disabilities and their parents or guardians are protected; (3) assist States, localities, educational service agencies and Federal agencies to provide for the education of all children with disabilities; and (4) assess and ensure the effectiveness of efforts to educate children with disabilities. The Assistance for Education of All Children with Disabilities Program (IDEA, Part B) provides grants to States to assist them in meeting these purposes (20 USC 1400 *et seq.*).

IDEA's Special Education--Preschool Grants Program, (Preschool Grants for Children with Disabilities Program), also known as the "619 Program," provides grants to States, and through them to LEAs, to assist them in providing special education and related services to children with disabilities ages three through five and, at a State's discretion, to two-year-old children with disabilities who will turn three during the school year. (20 USC 1419).

II. PROGRAM PROCEDURES

A State applying through its State Education Agency (SEA) for assistance under IDEA, Part B must, among other things, demonstrate to the Department of Education (ED) that it has in effect policies and procedures that ensure that all children with disabilities have the right to a FAPE.

States that receive assistance under IDEA, Part B, may receive additional assistance under the Preschool Grants Program. A State is eligible to receive a grant under the Preschool Grants Program if: (1) the State is eligible under 20 USC 1412 and (2) the State demonstrates to the Secretary that it has in effect policies and procedures that ensure the provision of FAPE to all children with disabilities aged three through five years residing in the State (20 USC 1419(b) and (c)).

Source of Governing Requirements

This program is authorized under the Individuals with Disabilities Education Act, Part B (IDEA-B) as enacted on June 4, 1997 (Pub. L. No. 105-17; 20 USC 1400 *et seq.*). Implementing regulations for these programs are 34 CFR parts 300 and 301.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. *SEAs* - Allowable activities for SEAs are subgranting funds to LEAs and State administration, and other State-level activities (See III.G.3, Earmarking, for a further description of these activities).
2. *LEAs*
 - a. *IDEA, Part B* - An LEA may use Federal funds under IDEA, Part B for the excess costs of providing special education and related services to children with disabilities. Special education includes specially designed instruction, at no cost to the parent, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions and in other settings, and instruction in physical education, home instruction and instruction in other settings. Related services include transportation and such developmental, corrective and other supportive services as may be required to assist a child with a disability to benefit from special education. A portion of these funds, under conditions specified in the law, may also be used by the LEA for services and aids that also benefit nondisabled children and for the development and implementation of integrated and coordinated services systems (20 USC 1401(22) and (25); 20 USC 1413(a)(2) and (a) (4)).

LEAs must use subgrants for capacity building to assist them in providing direct services and in making systemic change to improve results for children with disabilities through one or more of the following activities: (i) direct services, including alternative programming for children who have been expelled from school, and services for children in correctional facilities, children enrolled in State-operated or State-supported schools, and children in charter schools; (ii) addressing needs or carrying out improvement strategies identified in the State's Improvement Plan; (iii) adopting promising practices, materials, and technology, based on knowledge derived from education research and other sources; (iv)

establishing, expanding, or implementing interagency agreements and arrangements between LEAs and other agencies or organizations concerning the provision of services to children with disabilities and their families; and (v) increasing cooperative problem-solving between parents and school personnel and promoting the use of alternative dispute resolution. (20 USC 1411(f)(4))

- b. *IDEA Preschool* - A LEA may use Federal funds under the Preschool Grants Program only for the costs of providing special education and related services (as described above) to children with disabilities ages three through five and, at a State's discretion, providing a free appropriate public education to two-year-old children with disabilities who will turn three during the school year. (20 USC 1419(a)).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort* (LEAs)

IDEA, Part B funds received by an LEA cannot be used, except under certain limited circumstances, to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds, or a combination of State and local funds, below the level of those expenditures for the preceding fiscal year. To meet this requirement, an LEA must expend, in any particular fiscal year, an amount of local funds, or a combination of State and local funds, for the education of children with disabilities that is at least equal to the amount of local funds, or a combination of State and local funds expended for this purpose by the LEA in the prior fiscal year. Allowances may be made for: (a) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel; (b) a decrease in the enrollment of children with disabilities; (c) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child has left the jurisdiction of the agency, has reached the age at which the obligation of the agency to provide a FAPE has terminated or no longer needs such program of special education; or (d) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment and the construction of school facilities.

For any fiscal year for which amounts appropriated to carry out IDEA-B exceeds \$4,100,000,000, an LEA may treat as local funds, for the purpose of determining compliance with the maintenance of effort requirement, up to 20 percent of the IDEA-B funds it receives that exceeds the amount received the previous year. The SEA may prohibit the LEA from treating such funds as local funds if it determines the LEA is not meeting IDEA-B requirements and if it is authorized to do so by the State constitution or State statute (20 USC 1413(a)(2), 34 CFR sections 300.231 through 300.233).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

Individual State grant award documents identify the amount of funds a State must distribute to its LEAs on a formula basis and the amount it can set aside for administration, other State-level activities, and capacity building grants to its LEAs.

a. *IDEA, Part B (SEAs)*

(1) **SEA set-aside (Overview):** The Secretary shall determine and report to the SEA an amount that is 25 percent of the amount the State received under this section for fiscal year 1998, cumulatively adjusted by the Secretary for each succeeding fiscal year. These funds may be used for administration (20 percent of the set-aside amount), other State-level activities, and subgrants to LEAs for capacity building (20 USC 1411(f)(1)).

-- **Administration:** Administration includes the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities. These funds may also be used for the administration of Part C of the IDEA if the SEA is the lead agency (20 USC 1411(f)(2), 34 CFR sections 300.620 and 300.621).

-- **Other State-level activities:** SEA set aside funds not used for administration or capacity building subgrants to LEAs shall be used for any of the following activities: (1) support and direct services, including technical assistance and personnel development and training; (2) administrative costs of monitoring and complaint investigation, but only to the extent that those costs exceed the costs incurred for those activities during fiscal year 1985; (3) establishment and implementation of a mediation process, including providing for the costs of mediators and support personnel; (4) assistance to LEAs in meeting personnel shortages; (5)

development of a State Improvement Plan; (6) activities at the State and local levels to meet the performance goals established by the State and to support implementation of the State Improvement Plan; and (7) supplementing other amounts used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section (this system shall be coordinated with and, to the extent appropriate, build on the system of coordinated services developed by the State under Part C) (20 USC 1411(f)(3), 34 CFR section 300.370).

-- **Capacity Building subgrants to LEAs:** ED will inform SEAs of the amount of their IDEA-B grants that must be used for subgrants to LEAs for capacity building (20 USC 1411(f)(4)).

(2) **Formula Subgrants to LEAs:** Any funds under this program that the SEA does not retain for administration and other State-level activities shall be distributed to eligible LEAs in the State. An SEA must distribute to each eligible LEA the amount that LEA would have received for fiscal year 2000 if the State had distributed 75 percent of its grant for that year to LEAs. The SEA must then distribute 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the LEA's jurisdiction; and then distribute 15 percent of any remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the State educational agency (20 USC 1411(g)).

(b) *IDEA, Preschool Grants Program (SEAs)*

(1) **Reservation for State Activities:** For each fiscal year, the Secretary shall determine and report to the SEA an amount that is 25 percent of the amount the State received under this program for fiscal year 1998, cumulatively adjusted by the Secretary for each succeeding fiscal year. These funds may be retained by the State for administration and other State level activities (20 USC 1419(d)).

- **State Activities (Administration):** An SEA may use up to 20 percent of the funds it is allowed to retain for State activities under 20 USC 1419(d) for the purposes of administering this program, including the coordination of activities under the IDEA with, and providing technical assistance to, other programs that provide services to children with disabilities. These funds may also be used for the administration of Part C of the IDEA if the SEA is the lead agency for the State under this part (20 USC 1419(e)).

 - **State Activities (Other State level activities):** SEAs shall use funds reserved for State level activities that are not used for administration for: (1) support services (including establishing and implementing the mediation process required by section 20 USC 1415(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5; (2) direct services for children eligible for services under this program; (3) development of a State improvement plan; (4) activities at the State and local levels to meet the performance goals established by the State and to support implementation of the State improvement plan; or (5) supplementing other funds used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this program for a fiscal year (20 USC 1419(f)).
- (2) **Formula Subgrants to LEAs:** Any funds under this program that the SEA does not retain for administration and other State-level activities shall be distributed to eligible LEAs in the State. An SEA must distribute to each eligible LEA the amount the LEA would have received for fiscal year 1998 if the State had distributed 75 percent of its grant for that year to LEAs. The SEA must then distribute 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and then distribute 15 percent of any remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the SEA. (If an SEA determines that an LEA is adequately providing a FAPE to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the SEA may reallocate any portion of the funds under this program that are not needed by that LEA to provide a FAPE to other LEAs in the State that are not adequately providing special education and related

services to all children with disabilities aged 3 through 5 residing in the areas they serve) (20 USC 1419(g)).

(c) **Schoolwide Programs (LEAs)**

The amount of IDEA- B funds used in a schoolwide program, may not exceed the amount received by the LEA under IDEA-B for that fiscal year divided by the number of children in the jurisdiction of the LEA multiplied by the number of children participating in the schoolwide program (34 CFR section 300.234).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *Report of Children and Youth with Disabilities Receiving Special Education Under Part B of the Individuals With Disabilities Education Act, as amended (OMB No. 1820-0043)* - Each SEA is required to report to the Secretary an unduplicated count of children with disabilities receiving special education and related services.

The SEA may include in this count children with disabilities who are enrolled in a school or program that is operated or supported by a public agency, and that either (1) provides them with both special education and related services or (2) provides them only with special education if they do not need related services to assist them in benefitting from that special education. The SEA may not, however, include in this count children with disabilities who: (1) are not enrolled in a school or program operated or supported by a public agency; (2) are not provided special education that meets State standards; (3) are not provided with a related service that they need to assist them in benefitting from special education; or, (4) are receiving special education funded solely by the Federal Government--except that children in any of the age ranges three, four, five, eighteen, nineteen, twenty, or twenty-one, who fall into this category, may be counted if no local or State funds are available for non-disabled children in that same age range (34 CFR section 300.753).

Each SEA must: (a) establish procedures to be used by LEAs and other educational institutions in counting the number of children with disabilities receiving special education and related services; (b) obtain certification from each agency and institution that an unduplicated and accurate count has been made; and, (c) ensure that documentation is maintained that enables the State and the Secretary to audit the accuracy of the count (34 CFR sections 300.754(a),(c), and (e)).

LEAs must report to the SEA in accordance with the SEA-established procedure.

N. Special Tests and Provisions

1. Schoolwide Programs

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION

CFDA 84.032 FEDERAL FAMILY EDUCATION LOANS (FFEL) - (Guaranty Agencies)

I. PROGRAM OBJECTIVES

Non-profit and State guaranty agencies are established to guarantee student loans made by lenders and perform certain administrative and oversight functions under the Federal Family Education Loans (FFEL) program, which includes the Federal Stafford Loan, Federal PLUS, Federal SLS and Federal Consolidation loan programs. The Department of Education (ED) provides reinsurance to the guaranty agency.

II. PROGRAM PROCEDURES

To participate in the FFEL programs and to receive various payments and benefits incident to that participation, a guaranty agency enters into agreements with ED. As part of these agreements, guaranty agencies establish and maintain a Federal Student Loan Reserve Fund (Federal Fund) and the Agency Operating Fund; service defaulted loans that have been submitted to them; make timely claim payments to lenders on defaulted loans; make timely reinsurance filings with ED; provide accurate and reliable reports to ED; apply proper charges to defaulted borrowers; and take proper enforcement measures with respect to lenders, lender servicers, and defaulted borrowers.

Section 428A of the Higher Education Act (HEA), as amended allows ED to enter into Voluntary Flexible Agreements (VFA) with guaranty agencies to pilot alternatives to the current guaranty agency financing model. ED had previously limited participation to not more than six guaranty agencies (July 28, 1999 *Federal Register* (64 FR 40859)). Effective October 1, 2001, however, any guaranty agency or consortium of agencies may apply to enter into a VFA with ED (Section 428A(a)(3) of the HEA, 20 USC 1078-1(a)(3)). VFA pilots are uniquely designed by each guaranty agency and may waive some of the compliance requirements. If a VFA exists, the auditor should review the VFA and determine: (1) which of the "III. Compliance Requirements" below are applicable, and (2) what, if any, additional or alternative audit procedures should be performed to test compliance with the terms of the VFA.

Source of Governing Requirements

The FFEL program is authorized by the Higher Education Act (HEA) of 1965, as amended (20 USC 1071 to 1087-2). Program regulations are located at 34 CFR part 682.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

The compliance requirements and suggested audit procedures for allowed and unallowed services are presented separately in Special Test number 10, Federal Fund and Agency Operating Fund, in Section N.

L. Reporting

- 1. Financial Reporting** - Not Applicable
- 2. Performance Reporting** - Not Applicable
- 3. Special Reporting**

ED Form 2000, *Guaranty Agency Financial Report (OMB No. 1845-0026)* - Guaranty agencies submit this form monthly, monthly/quarterly, or annually. Instructions for this report are available on the Internet at <http://www.ed.gov/offices/OSFAP/IGAL/guaranty.html>.

In determining which amounts to test on ED Form 2000, particular attention should be given to the September 30 amounts for current year defaults, current year collections, loans receivable and the sources and uses of funds in the Federal Fund (or equivalent line items pertaining to the Federal/Operating Funds for the September 30 report). Also, guaranty agencies are required to submit loan level detail information to the National Student Loan Data System (NSLDS) (*OMB No. 1845-0035*). When reviewing support for the above reports, the auditor should consider whether the relevant amounts in these reports reconcile with the NSLDS Extract submitted by the guaranty agency. (NOTE: There may be some differences between the ED Form 2000 and the NSLDS Extracts due to timing factors (e.g., pulling of NSLDS Extract in third week vs. month end). Finally, ED may send edits back to the guaranty agency to be entered.)

The guaranty agency is required to submit loan level detail data to the NSLDS. The following are identified as key data elements: social security number (SSN); last name (some agencies may use first name combined with the SSN since last names are subject to change); original school code; academic level; current school code; enrollment status code; enrollment status date; originating lender code; loan guarantee date; amount of guarantee; current holder lender code; date repayment entered; loan status code; loan status date; outstanding principal; amount of claim paid to lenders (principal and interest); and interest and fee amounts for loans in defaulted status. ED sends edits back to the guaranty agency for disposition. Samples should be selected from the guaranty agency's NSLDS Extracts (Note: Guaranty Agencies may have changed to automated exchanges of data with schools and lenders; thus, hard copy documents may not exist. In this instance, auditors may only be able to trace to system information and not to supporting records.) (34 CFR section 682.414(b)).

In addition to providing ED with information it needs to maintain its accounting and loan database records, data in the ED Form 2000 report are used for various purposes by ED. The use of this data is the subject of several other compliance requirements cited in Section N., Special Tests and Provisions, which identify the need to test specific items in these reports. For audit efficiency, the auditor may want to test those requirements at the same time as this compliance requirement. The other compliance requirements are "N.2 Federal Reinsurance Rate," "N.3 Conditions of Reinsurance," "N.4 Death, Disability, and Bankruptcy," and "N.10 Federal Fund and Operating Fund.

N. Special Tests and Provisions

1. Current Records

Compliance Requirement - The guaranty agency shall maintain current, complete records for each loan that it holds. The records must be maintained in a system that allows ready identification of each loan's current status, updated at least once every 10 business days (34 CFR section 682.414(a)).

Audit Objective - Determine whether the guaranty agency's records are updated for information received from lenders, schools, borrowers, others, and NSLDS on a timely basis.

Suggested Audit Procedures

- a. For a sample of loans, compare dates transactions or information were posted to the guaranty agency's system to the date the source information was received.
- b. Identify whether any backlog exists that is over 10 days old.

2. Federal Reinsurance Rate

Compliance Requirement - The applicable Federal reinsurance rate for a loan depends on the amount of reinsurance claims paid to the guaranty agency during the year and the date the loan was made (34 CFR sections 682.404(b) & (c)).

For loans made prior to October 1, 1993 or transferred under a plan to transfer guarantees from an insolvent guaranty agency approved by ED, when the total amount of reinsurance claims paid to the guaranty agency during a fiscal year is less than five percent of the amount of loans in repayment at the end of the preceding fiscal year, reinsurance is paid for 100 percent of the guaranty agency's losses. When the total amount of reinsurance claims paid to the guaranty agency during a fiscal year reaches five percent of the amount of loans in repayment at the end of the preceding fiscal year, the reinsurance subsequently paid to the guaranty agency during that fiscal year, drops to 90 percent. When the amount of claims reaches nine percent, the reinsurance drops to 80 percent.

For loans made from October 1, 1993 to September 30, 1998, the above rates drop to 98/88/78 percent, respectively. For loans made on or after October 1, 1998 the respective rates are 95/85/75 percent (Section 428(c)(1) of HEA (20 USC 1078(c)(1))).

The Secretary uses the ED Form 2000 report for the previous September 30 to calculate the amount of loans in repayment at the end of the preceding fiscal year (34 CFR sections 682.404(b) & (c)).

Past problem areas have been:

Guaranty agencies have:

- not established systems to verify a student's loan status with lender and school data through a reliable audit trail.
- established systems to determine loan status that rely on loan characteristic analysis or assumptions that are not adequately tested or verified.
- not established adequate procedures to ensure that lenders report and that agencies properly record loans paid in full.
- not established adequate procedures to ensure that there is a system to reconcile the guaranty agency's repayment conversion dates to the lender's repayment conversion dates.

Audit Objective - Determine whether the data submitted to ED in the September 30 Form 2000 used to calculate loans in repayment is materially correct and supported by the books and records.

Suggested Audit Procedures

- a. Compare the amounts of loans in repayment in the guaranty agency system at September 30 to the amount of loans in repayment derived from the September 30 ED Form 2000. Determine the propriety of any difference.
- b. Select a sample of loans in in-school and repayment status from the guaranty agency's system. Verify the loan amount and loan status by contacting the current holder of the loan or schools to confirm the authenticity and status of the loans.

3. Conditions of Reinsurance Coverage

Compliance Requirement - A guaranty agency is entitled to reinsurance payments on a loan only if the requirements cited in 34 CFR section 682.406 are met. The lender must provide the guaranty agency with documentation, as described in 34 CFR sections 682.406 and 414. The Secretary requires a guaranty agency to repay reinsurance payments received on a loan if the lender or the guaranty agency failed to meet these requirements (34 CFR section 682.406).

Past problem areas have been:

The lender:

- Did not exercise due diligence in servicing the loan in accordance with 34 CFR section 682.411 (34 CFR section 682.406(a)(1)).
- Did not include adequate documentation, including a collection and payment history, to support claim eligibility and the claim amount (34 CFR 682.406(a)(3)).
- Did not file a default claim with the guaranty agency within 90 days of default. (Note: The guaranty agency shall reject the claim based on due diligence or timely filing violations, unless it was cured by the lender in accordance with Cure Bulletin 88-G-138. See 34 CFR part 682, Appendix D.)(34 CFR section 682.406(a)(5))
- Was paid interest beyond 30 days after a claim was returned for inadequate documentation for claims returned on or after July 1, 1996 (34 CFR section 682.406(a)(6)).

The guaranty agency:

- Filed a request for payment of reinsurance later than 45 days following payments of a default claim to the lender (34 CFR section 682.406(a)(9)).
- Did not pay the lender within 90 days of the date the lender filed the claim (34 CFR section 682.406(a)(8)).
- Did not pay the lender prior to filing a request for payment from ED.

Audit Objective - Determine whether loans for which reinsurance was paid met the requirements for reinsurance.

Suggested Audit Procedures

Select a sample of defaulted loans from the guaranty agency's ED Form 2000 reports. Review documentation supporting that the loans met the conditions of reinsurance.

4. Death, Disability, and Bankruptcy Claims

Compliance Requirement - If an individual borrower dies, the obligation of the borrower and any endorser to make any further payments on the loan is canceled, in accordance with 34 CFR sections 682.402(b)(2-5). If the lender determines that an individual borrower is totally and permanently disabled, the obligation of any further payments on the loan is canceled in accordance with 34 CFR sections 682.402(c)(1-4). If a borrower files a petition of relief under the Bankruptcy Code, the Secretary reimburses

the holder of the loan for unpaid principal and interest on the loan, in accordance with 34 CFR sections 682.402(f), (g), and (h). Exceptions to these regulations are identified in 34 CFR sections 682.402(a)(2) and (3).

A lender must file a death, disability or bankruptcy claim within the period prescribed in 34 CFR section 682.402(g)(2). The guaranty agency shall review a death, disability, or bankruptcy claim promptly and shall pay the lender in accordance with 34 CFR section 682.402(h). Guaranty agencies are required to take specific actions in bankruptcy proceedings in accordance with 34 CFR section 682.402(i). In accordance with 34 CFR section 682.402(k)(1)(i), the guaranty agency shall not request payment from ED until the lender's claim has been paid (34 CFR section 682.402).

Audit Objective - Determine whether death, disability and bankruptcy claims met the requirements for the payment of such claims.

Suggested Audit Procedures

- a. Select a sample of death, disability, and bankruptcy claims from the guaranty agency's ED Form 2000 reports.
- b. Review claim documentation that supports the eligibility of the claims for payment.

5. Default Aversion Assistance

Compliance Requirement - Upon receipt of a complete request from a lender, received not earlier than day 60 and no later than day 120 of delinquency, a guaranty agency shall engage in default aversion activities designed to prevent the default by a borrower. Default aversion activities are activities of a guaranty agency that are directly related to providing collection assistance to the lender on a delinquent loan, including due diligence activities required pursuant to regulations of the Secretary, prior to the loan being legally in a default status. In consideration of such efforts, the guaranty agency receives a default aversion fee. (34 CFR 682.404(k)).

Calculating the Fee - In general, a guaranty agency may transfer a default aversion fee from its Federal Fund to its Operating Fund based on 1 percent of the total unpaid principal and accrued interest owed on loans on which the lender requests default aversion assistance. However, if a loan on which the guaranty agency has received the default aversion fee is subsequently paid as a default claim, the guaranty agency must rebate funds to the Federal Fund. The fees may be transferred from the Federal Fund to the Operating Fund no more frequently than monthly and may not be paid more than once on any loan (34 CFR 682.404(k)).

Audit Objective - Determine whether the guaranty agency performed default aversion activities in accordance with the requirements; whether loans on which the default aversion fee was received were qualified, and whether the fees were calculated accurately.

Suggested Audit Procedures

- a. For a sample of loans, review documentation supporting that the loans qualified for and the guaranty agency performed the default aversion activities.
- b. For a sample of default aversion fee transfers:
 - (1) Verify that the default aversion fee was calculated accurately.
 - (2) Verify that default aversion fees were not paid more than once on the same loan.
- c. For a sample of defaulted loans, verify that the appropriate default aversion fees are returned to the Federal Fund.

6. Standard Collection Efforts

Compliance Requirement - Unless the guaranty agency uses alternative collection procedures (see next section for alternative collection procedures), the guaranty agency must engage in certain collection activities within certain time frames as prescribed by 34 CFR section 682.410(b)(6) on a loan for which it pays a default claim filed by a lender. These collection activities include written notices, contacts with borrowers, wage garnishments, etc. If a guaranty agency contracts with another party to perform default aversion assistance activities and collect defaulted loans, the party that provides default aversion assistance on a loan may not perform collection activity on that loan within three years of the date the default claim is paid (34 CFR 682.404(k) and 682.410 (b)(6)).

Audit Objective - Determine whether the guaranty agency performed required collection procedures on defaulted loans and that the collection contractor did not perform collection activities within three years of the default claim payment on loans for which it performed default aversion assistance.

Suggested Audit Procedures

- a. If the guaranty agency uses a collection contractor, review the contract to ascertain if the contract specified the required collection procedures to be followed for defaulted loans.
- b. For a sample of defaulted loan accounts, review documentation that supports that prescribed collection activities were followed.
- c. Verify that the collection contractor did not perform collection activity within the three year period on loans for which it performed default aversion assistance.

7. Alternative Collection Efforts

Compliance Requirement - A guaranty agency may engage in the following collection activities in lieu of the activities described above in the Standard Collection Efforts section. The regulations at 34 CFR sections 682.410 (b)(6)(ii)(A) and (B) apply to the periods of time set forth in this Alternative Collection Efforts section. Upon receipt of a payment from a borrower, the guaranty agency is not required to follow the specific collection efforts described below, but shall diligently attempt to collect the loan for 60 days following receipt of the payment. If the guaranty agency receives no payments during the 60-day period, the guaranty agency shall resume its use of the collection efforts described below, treating the first day after the end of the 60-day period as the first day of the period described in the 31-180 day period below (34 CFR section 682.410 (b)(7)).

1 - 30 days:

During this period the guaranty agency shall send to the borrower the written notice described in 34 CFR section 682.410 (b)(5)(ii).

31 - 180 days:

During this period the guaranty agency shall attempt diligently to collect the loan using such collection tools and activities as it deems appropriate, provided, however, that the guaranty agency must make at least one diligent effort to contact the borrower by telephone, as defined in 34 CFR section 682.411(l) (with references to "the lender" understood to mean "the guaranty agency"), and send at least two forceful collection letters to the borrower. By the end of this period, the guaranty agency shall refer the loan to a collection contractor in accordance with 34 CFR section 682.410(b)(7)(iv)(C). The collection contractor to whom the guaranty agency refers a loan under 34 CFR section 682.410 (b)(7)(iv)(B) must: (1) be compensated for its services on all FFEL loans referred by the agency solely on a contingency fee basis; (2) be one of at least two collection contractors simultaneously providing collection services to the agency on FFEL loans under a competitive system that the guaranty agency has established and that includes the periodic assessment by the agency of the performance of the competing contractors and periodic adjustments in the volume of loans referred by the guaranty agency to each competing contractor based on those assessments; and, (3) not receive referral of more than 70 percent of the guaranty agency's referred loans in any calendar year.

After 180 days:

Notwithstanding the deadline for instituting a civil suit set forth in 34 CFR section 682.410 (b)(6)(vii), a guaranty agency that uses the procedures in 34 CFR section 682.410 (b)(7)(i)-(iv) shall institute a civil suit required by that paragraph prior to the earliest of the 90th day following the collection contractor's return of the loan to the agency or the 365th day following the later of the guaranty agency's referral of the loan to the collection contractor, or the contractor's receipt of a payment on the loan.

Audit Objective - Determine whether the guaranty agency that chose to follow alternative collection procedures complied with the applicable requirements.

Suggested Audit Procedures

- a. For a sample of defaulted loan accounts, review documentation that supports that the guaranty agency performed the prescribed collection activities before referring the loans to the collection contractors.
- b. Review collection agency contracts and loan referral records to ascertain if the guaranty agency (1) did not refer more than 70 percent of its referred loans to a single collection contractor, and (2) compensated the contractors only on a contingency fee basis.
- c. Review records demonstrating that the guaranty agency periodically assessed the performance of the competing contractors, and if necessary, made adjustments in the volume of loans referred to each competing contractor.

8. Federal Share of Borrower Payments

Compliance Requirement - If the borrower makes payments on a loan after the guaranty agency has paid a claim on that loan, the guaranty agency must pay the Secretary an equitable share of those payments.

For borrower payments received on or after October 1, 1998 - the Secretary's equitable share is the portion of payments that remains after deducting:

- (1) The complement of the reinsurance percentage in effect when reinsurance was paid on the loan (See 2., Federal Reinsurance Rate, above for the applicable reinsurance rate. The complement of the reinsurance percentage equals 100 minus the Federal reinsurance rate), and
- (2) 24 percent of borrower payments.

For borrower payments received on or after October 1, 2003 - the Secretary's equitable share is the portion of payment that remains after deducting the complement of the reinsurance percentage and 23 percent of borrower payments (Section 428(c)(6) of HEA (20 USC 1078(c)(6))).

Loans that have been rehabilitated or paid by FFEL program consolidation loans are not covered by this requirement because the payoff amounts are not considered "payments made by the borrower." For these loans, under separate authority, agencies are allowed to retain collection costs added to the borrower's balance, not to exceed 18.5 percent of the payoff.

Unless the Secretary approves otherwise, the guaranty agency must submit the Secretary's equitable share of borrower payments within 45 days of the receipt of the payments by the

guaranty agency or its servicer (34 CFR section 682.404 (g); Section 428(c)(2)(D) (20 USC 1078(c)(2)(D)) and Section 428(c)(6) (20 USC 1078(c)(6)) of the HEA.

Audit Objective - Determine whether the Secretary's equitable share of borrower payments on defaulted loans is properly computed and remitted to the Secretary in a timely manner.

Suggested Audit Procedures

Test a sample of borrower payments on defaulted loans to ascertain if the equitable share due ED was remitted to ED in a timely manner.

9. Assignment of Defaulted Loans to ED

Compliance Requirement - Unless the Secretary notifies a guaranty agency in writing that other loans must be assigned to the Secretary, a guaranty agency must assign any loan that meets all of the following criteria as of April 15 of each year: (1) the unpaid principal balance is at least \$100; (2) the loan, and any other loans held by the guaranty agency for that borrower, have been held by the agency for at least five years; (3) a payment has not been received on the loan in the last year; and (4) a judgement has not been entered on the loan against the borrower. The Secretary may also direct a guaranty agency to assign to ED certain categories of defaulted loans held by the guaranty agency as described in 34 CFR section 682.409. In determining whether mandatory assignment from a guaranty agency is required, the Secretary will review the adequacy of collection efforts. ED considers the guaranty agency's record of success in collecting its defaulted loans, the age of the loans, and the amount of any recent payments on the loans (Section 428(c)(8) of the HEA (20 USC 1078(c)(8));34 CFR section 682.409).

Audit Objective - Determine whether the guaranty agency assigned to ED all loans that meet the criteria.

Suggested Audit Procedures

- a. Review the guaranty agency's aging of loans to ascertain if the guaranty agency is holding loans that should be assigned to ED.

10. Federal Fund and Agency Operating Fund

Compliance Requirement - Each guaranty agency was required to establish a Federal Fund and an Agency Operating Fund by December 6, 1998.

Federal Fund

All funds, securities, and other liquid assets contained in the pre-existing reserve fund established pursuant to Section 422 of the HEA were to be deposited in this fund. After the Federal Fund is established, a guaranty agency shall deposit the following:

- All amounts received from ED as payment of reinsurance on loans.
- From amounts collected on behalf of obligation of a defaulted borrower, a percentage amount equal to the complement of reinsurance and the Secretary's equitable share of the collections (must be deposited within 48 hours of receipt).
- Insurance premiums collected.
- Amounts received for SPA activity performed prior to date of enactment.
- 70 percent of amounts received after enactment for Administrative Cost Allowance (ACA) for loans upon which insurance was issued prior to date of enactment.
- Earnings from investments of the Federal Fund.
- Other receipts as specified in regulations.

The Federal Fund may only be used for the following purposes:

- To pay lender claims pursuant to sections 428(b)(1)(G), 428(j), 437, and 439(q) of HEA (20 USC 1078(b)(1)(G), 1078(j), 1087, and 1087-2(q)).
- To pay default aversion fees into the Agency Operating Fund.
- To establish the Operating Fund, each guaranty agency may, with the Secretary's approval, transfer not more than 180 days' cash expenses for normal operating expenses (not including claim payments) as a working capital reserve as defined in Office of Management and Budget Circular A-87 from the Federal Fund for deposit into the Operating Fund for use in the performance of the guaranty agency's duties. Such transfers may occur during the first three years following the establishment of the Operating Fund. No guaranty agency may transfer in excess of 45 percent of the balance, as of September 30, 1998, of the guaranty agency's Federal Fund to the agency's Operating Fund during such three-year period. The guaranty agency shall ensure that sufficient funds remain in the Federal Fund to pay lender claims within the required time periods and to meet the reserve recall requirements. (Section 422A(a)-(f) of the HEA (20 USC 1072a(a)-(f)); 34 CFR sections 682.419 and 682.421; 64 FR 58634-58635).

Agency Operating Fund

Each guaranty agency shall establish a fund designated as the Operating Fund. To establish the Operating Fund, each guaranty agency can transfer not more than 180 days cash outlays for operating expenses (not including claim payments) from the Federal Fund. Amounts deposited into the Operating Fund shall be invested at the discretion of the guaranty agency in accordance with prudent investor standards. *Effective July 1, 2000*, permission of the Secretary is required to transfer these funds.

The guaranty agency shall deposit into the Operating Fund:

- Loan processing and insurance fees.
- 30 percent of ACA amounts received after date of enactment for loans upon which insurance was issued prior to date of enactment.
- Account maintenance fees.
- Default aversion fees.

- Amounts remaining from collection on defaulted loans held by the guaranty agency, after payment of Secretary's equitable share, excluding amounts deposited in the Federal Fund pursuant to section 422(c)(2) (34 CFR section 682.419(b)(5)).
- Other receipts as specified in regulations (34 CFR section 682.423).

Funds in the Operating Fund shall be used for application processing, loan disbursement, enrollment and repayment status management, default aversion activities, default collection activities, school and lender training, financial aid awareness and related outreach activities, compliance monitoring, and other SFA related activities. *During any period in which the Operating Fund contains money transferred in from the Federal Fund, the entire Operating Fund is subject to the restrictions in 34 CFR sections 682.410 and 682.418 (Sections 422B(a)-(e) of the HEA (20 USC 1072b(a)-(e))).*

Past problem areas concerning fund revenue and expense have included:

- Failure to credit funds received into the Federal Fund, including lock-box operations, within the specified period.
- Unsupported expenses paid from reserve fund assets.
- Failure to report all credits to the reserve fund on ED Form 2000.
- Use of funds for other programs (e.g., SSIG and other State programs).
- Commingling of funds.
- Unreasonable allocation of indirect costs to the FFEL program or failure to prepare the cost allocation plan as required by 34 CFR section 682.418(c).

Audit Objective - Determine whether the guaranty agency credited the required amounts to the Federal and Operating Funds, and used the resources of each fund solely for authorized purposes.

Suggested Audit Procedures

- a. Review revenue records to assure that amounts required to be credited to the Federal and Operating Funds were so credited. Review revenues and receipts that were not credited to the Federal or Operating Funds to assure that they were not inappropriately omitted.
- b. Test expenditures to ascertain if they were made for allowable purposes.
- c. Examine the general journal for unusual entries that impact the Federal or Operating funds.

11. Investments - Federal Fund

Compliance Requirement - Funds transferred to the Federal Fund shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary.

Earnings from the Federal Fund shall be the sole property of the Federal government. (Section 422A(b) of the HEA (20 USC 1072A(b))).

Audit Objective - Determine whether the agency invested Federal funds only in approved securities or other instruments.

Suggested Audit Procedures

- a. Review investment activity during the period to ascertain that Federal Fund assets were invested in approved securities or other instruments.

12. Collection Charges

Compliance Requirement - The guaranty agency must charge a defaulted borrower an amount equal to reasonable costs incurred by the guaranty agency in collecting a loan on which the guaranty agency has paid a default or bankruptcy claim. The amount charged the borrower must equal the lesser of the amount that would be charged under the formula in 34 CFR section 30.60 or, the amount that would be charged if the loan was held by ED. Costs may include, but are not limited to, attorney's fees, collection agency charges, and court costs (34 CFR section 682.410(b)(2)).

Audit Objective - To determine whether the guaranty agency charged appropriate collection costs to borrowers of loans on which the guaranty agency has paid a default or bankruptcy claim.

Suggested Audit Procedures

- a. Test a sample of defaulted loan accounts to determine whether the guaranty agency charged for reasonable costs of collection.
- b. Ascertain if the method used to calculate the amount was appropriate.

13. Enforcement Action

Compliance Requirement - The guaranty agency shall take measures to ensure enforcement of all Federal, State and guaranty requirements and at a minimum, conduct biennial on-site program reviews of such lenders and schools that meet criteria specified in 34 CFR section 682.410(c)(1) or are selected using an alternative methodology approved by the Secretary. The guaranty agency is required to use statistically valid techniques to calculate liabilities owed the Secretary that the review indicates may exist; demand prompt payment from the responsible party; and refer to the Secretary any case in which the payment of funds is not made within 60 days. A guaranty agency is also required to adopt procedures for identifying fraudulent loan applications, and undertake or arrange for the prompt and thorough investigation of criminal or other programmatic misconduct by its program participants. It is responsible also for promptly reporting all of the allegations and indications of fraud or misconduct having a substantial basis in

fact, and the scope, progress and results of the agency's investigations (34 CFR section 682.410(c)).

Audit Objective - Determine whether the guaranty agency is carrying out program reviews and related enforcement activity in accordance with the above requirements.

Suggested Audit Procedures

- a. Review the guaranty agency's procedures for selecting lenders and schools to review to ascertain if they meet the regulatory criteria or an alternative methodology approved by the Secretary.
- b. Review guaranty agency's program review guidance to ascertain if it is up-to-date and includes, when problems are found, a statistically valid method for determining liabilities due the Secretary.
- c. Review program review reports to ascertain if amounts due the Secretary were identified and, if so, whether appropriate demand for payment and follow-up was conducted.
- d. Through inquiry and review, determine whether the guaranty agency adopted procedures for identifying fraudulent loan applications and for reporting all allegations of misconduct having a substantial basis to ED. Review guaranty agency records on the follow-up of misconduct to determine whether ED was notified when appropriate.

DEPARTMENT OF EDUCATION

CFDA 84.041 IMPACT AID (Title VIII of ESEA)

I. PROGRAM OBJECTIVES

The objective of the Impact Aid Program (IAP) under Title VIII of the Elementary and Secondary Education Act (ESEA) is to provide financial assistance to local educational agencies (LEAs) whose local revenues or enrollments are adversely affected by Federal activities. These activities include the Federal acquisition of real property (Section 8002) or the presence of children residing on tax-exempt Federal property or residing with a parent employed on tax-exempt Federal property ("federally connected" children) (Section 8003).

II. PROGRAM PROCEDURES

Funds are provided on the basis of statutory criteria and data supplied by LEAs in applications submitted to the Department of Education (ED), with copies provided simultaneously to the State Educational Agency (SEA). Payments are made directly to the LEA by ED. Generally, payments under Section 8003 of the ESEA are based on membership and attendance counts of federally connected children, with additional funds provided for certain federally connected children with disabilities and children residing on Indian lands. Payments under Section 8002 of the ESEA are based on the estimated assessed value of eligible Federal property and the applicable tax rate, and, in case of insufficient funds, upon a statutory formula that considers past year payments. Except for the additional funds provided for federally connected children with disabilities under Section 8003(d) of the ESEA, funds provided under Sections 8002 and 8003 are considered general aid and generally have no restrictions on their expenditure. Any funds that are provided under Section 8007 of the ESEA to certain LEAs that received Section 8003 payments must be used for construction, as defined in the statute.

Source of Governing Requirements

This program is authorized by Sections 8001-8014 of the ESEA, which is codified at 20 USC 7701 through 7714. Implementing regulations are 34 CFR part 222.

Availability of Other Information

Additional information on this program (including the Impact Aid statute) may be found on the internet at www.ed.gov/offices/OESE/ImpactAid.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed**1. Section 8003(d) - Federally connected children with disabilities**

LEAs must use the payments provided under Section 8003(d) of the ESEA to conduct programs or projects for the free, appropriate public education of the federally connected children with disabilities who generated those funds. Allowable costs include expenditures reasonably related to the conduct of programs or projects for the free, appropriate public education of children with disabilities, including program planning and evaluation and acquisition costs of equipment, except when the title to that equipment would not be held by the LEA. Costs for school construction are not allowable (Section 8003 of ESEA; 34 CFR section 222.53(c)).

2. Section 8007 - Construction

LEAs that receive payments under Section 8003 of the ESEA and that meet certain other statutory criteria may receive assistance under Section 8007 of the ESEA in any fiscal year that the Congress appropriates funds under that Section. LEAs must use the payments provided under Section 8007 for construction, as defined in Section 8013(3) of the ESEA. Under Section 8013(3), the term "construction" includes: (1) the preparation of drawings and specifications for school facilities; (2) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities; (3) inspecting and supervising the construction of school facilities; and (4) debt service for such activities (Sections 8007 and 8013(3) of ESEA).

3. Section 8002 - Federal property payments and Section 8003(b) - Basic support payments

Funds made available under Sections 8002 and 8003(b) of the ESEA usually become part of the general operating fund of the LEAs. These funds are available as general aid for free public education and may be used for current operating expenditures or capital outlays in accordance with State laws. The auditor is not expected to perform any tests with respect to the expenditure of these funds.

B. Allowable Costs/Cost Principles

Sections 8002 (Federal property payments) and 8003(b) (Basic support payments) are not subject to the A-102 Common Rule or Circular A-87 (See Appendix I).

D. Davis-Bacon Act

Funds spent on Section 8007 construction are subject to Davis-Bacon prevailing wage requirements (20 USC 1232b).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
- 2.1 **Level of Effort** - *Maintenance of Effort* - Not Applicable
- 2.2 **Level of Effort** - *Supplement Not Supplant*

Section 8003(d) funds may not supplant any State funds (either general or special education State aid) that were or would have been available to the LEA for the free, appropriate public education of federally connected children with disabilities counted under Section 8003(d). A reduction in the per-pupil amount of State aid for children with disabilities, including children counted under Section 8003(d), from that received in the previous year raises a presumption that supplanting has occurred. An LEA can rebut this presumption by demonstrating that the reduction was unrelated to the receipt of Section 8003(d) funds (Section 8003(d) of ESEA; 34 CFR section 222.54).

3. **Earmarking** - Not Applicable

L. **Reporting**

1. **Financial Reporting** - Not Applicable
2. **Performance Reporting** - Not Applicable
3. **Special Reporting**

Application for Impact Aid - Section 8003 (OMB No. 1810-0036) - Each year an LEA must submit this application, which provides the following information: counts of federally connected children in various categories, membership and average daily attendance data, and information on expenditures for children with disabilities. Membership and average attendance data should be tested. The auditor should use professional judgment when determining which tables to test, taking into account the relative materiality of the number of children reported in other tables. (Note: Eligible LEAs submit a separate application for Section 8002 funding. The auditor is not expected to perform any tests with respect to the Section 8002 application.)

N. **Special Tests and Provisions**

1. **Required Level of Expenditure**

Compliance Requirement - For each fiscal year, the amount of expenditures for special education and related services provided to federally connected children with disabilities must be at least equal to the amount of funds received or credited under Section 8003(d) of the ESEA for that fiscal year. This is demonstrated by comparing the amount of Section 8003(d) funds received or credited with the result of the following calculation:

- a. Divide total LEA expenditures for special education and related services for all children with disabilities by the average daily attendance (ADA) of all children with disabilities served during the year.
- b. Multiply the amount determined in a. above by the ADA of the federally connected children with disabilities claimed by the LEA for the year.

If the amount of section 8003(d) funds received or credited is greater than the amount calculated above, an overpayment equal to the excess section 8003(d) funds exists. This overpayment may be reduced or eliminated to the extent that the LEA can demonstrate that the average per pupil expenditure for special education and related services provided to federally connected children with disabilities exceeded its average per pupil expenditure for serving non-federally connected children with disabilities (Section 8003(d) of ESEA; 34 CFR section 222.53(d)).

Audit Objective - To determine whether the LEA met the required level of expenditure for providing special education and related services to federally connected children with disabilities.

Suggested Audit Procedures

- a. Review the LEA's calculation to ascertain if it shows that the required level of expenditure for federally connected children was met. Check accuracy of calculation.
- b. Trace amounts used in the calculation to supporting records.
- c. If the LEA's calculation shows that an overpayment was made, verify that the average per pupil expenditure for federally connected children with disabilities exceeded the average per pupil expenditure for non-federally connected children to the extent of the overpayment.

DEPARTMENT OF EDUCATION

CFDA 84.042	TRIO -- STUDENT SUPPORT SERVICES
CFDA 84.044	TRIO -- TALENT SEARCH
CFDA 84.047	TRIO -- UPWARD BOUND
CFDA 84.066	TRIO -- EDUCATIONAL OPPORTUNITY CENTERS
CFDA 84.217	MCNAIR POST-BACCALAUREATE ACHIEVEMENT

I. PROGRAM OBJECTIVES

The Federal TRIO programs are authorized by Title IV of the Higher Education Act of 1965, as amended, and now consist of seven programs. These programs are designed to help first-generation college and economically disadvantaged students achieve success at the postsecondary level by facilitating high school completion and entry, retention, and completion of postsecondary education. Based on funding levels, only five of the programs are included in the TRIO single audit cluster.

Student Support Services program provides academic support services to low-income, first-generation, and disabled college students to enable them to be retained and graduate from institutions of higher education. The program also assists participants in making the transition from one level of higher education to the next.

Talent Search program identifies qualified youth with the potential for education at the postsecondary level and encourages them to complete or reenter secondary school and undertake a program of postsecondary education. Talent Search program also publicizes the availability of student financial assistance for persons who seek to pursue a postsecondary education.

Upward Bound program targets low-income and potential first-generation college students who are enrolled in high school, or veterans seeking to prepare themselves for success in postsecondary education. The program provides opportunities for participants to succeed in pre-college performance and ultimately in higher education pursuits.

Educational Opportunity Centers (EOC) program provides counseling and information on college admissions to qualified adults who want to enter or continue a program of postsecondary education. EOC projects also publicize the availability of student financial assistance for persons who seek to pursue a postsecondary education and assist individuals in applying for college admission and financial aid.

Ronald E. McNair Post-Baccalaureate Achievement (McNair) program provides low-income, first-generation college students and students from groups underrepresented in graduate education with effective preparation for doctoral study through involvement in research and other scholarly activities.

II. PROGRAM PROCEDURES

All TRIO grants are competitive discretionary grants.

Student Support Services and McNair grants are awarded for four-to-five year cycles. Eligible applicants are institutions of higher education or combinations of such institutions.

Talent Search, Upward Bound, and Educational Opportunity Centers grants are awarded for four to five years. Eligible applicants are institutions of higher education, public and private agencies and organizations, combinations of institutions and agencies, and in exceptional cases, secondary schools. The Upward Bound program has three types of projects: regular, veterans, and math/science.

Sources of Governing Requirements

The Federal TRIO programs are authorized by the Higher Education Act of 1965, as amended (20 USC 1070a *et seq.*). The applicable regulations are at 34 CFR sections 643 (Talent Search); 644 (Educational Opportunity Centers); 645 (Upward Bound); 646 (Student Support Services); and 647 (McNair).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements of a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for details of the requirements.

A. Activities Allowed or Unallowed

1. *Student Support Services (SSS) and Upward Bound Programs* - Allowable services and activities for these programs include the following: (1) instruction; (2) personal counseling; (3) academic advice and assistance in course selection; (4) tutorial services; (5) exposure to cultural events, academic programs, and other educational activities; (6) activities to acquaint project participants with career options; (7) instruction to prepare youths in the project for careers (Upward Bound only); (8) mentoring; and (9) activities specifically designed for individuals of limited English proficiency (34 CFR sections 645.11 and 646.4).
2. *SSS Only - Activities Allowed*
 - a. Activities to assist students in two-year institutions to secure financial assistance and admission to a four-year program, and to assist students in a four-year program to secure financial assistance and admission to graduate and professional programs (34 CFR section 646.4(h)).
 - b. The following cost items are allowable if reasonably related to allowed project activities: (1) cost of remedial and special classes and courses in

English language instruction for students of limited English proficiency, under certain circumstances; (2) in-service training of project staff; (3) activities of an academic or cultural nature; (4) transportation of participants and staff to and from approved educational and cultural activities sponsored by the project; (5) purchase of computer hardware, computer software, or other equipment to be used for student development, student records and project administration; (6) professional development travel for staff; and (7) project evaluation. SSS funds cannot be used for activities involved in recruiting students for enrollment at the grantee institution (34 CFR 646.30 and 646.31).

- c. Grant Aid to Students - See "III.E.1.a Eligibility for Individuals" (20 USC 1070a-14(c)).

3. *Upward Bound Only*

- a. Examples of specific allowable cost items are in 34 CFR section 645.40.
- b. Stipends to Students - See "III.E.1.b Eligibility for Individuals" (34 CFR sections 645.40 - 645.42).
- c. *Activities Unallowed* - The cost of room and board for the following persons may not be charged to the program: (1) administrative and instructional staff personnel who do not have responsibility for dormitory supervision of project participants; and (2) participants in Veterans Upward Bound projects (34 CFR sections 645.40 and 645.41).

4. *Talent Search and Educational Opportunity Centers (EOC) Programs* - Allowable project services include: (1) academic advice and assistance in course selection; (2) completing college admission and financial aid applications; (3) preparing for college entrance examinations; (4) guidance on secondary school reentry or entry to other programs leading to a secondary school diploma or its equivalent; (5) personal and career counseling; (6) tutorial services; (7) mentoring; (8) activities specifically designed for students of limited English proficiency; (9) (for Talent Search only) exposure to college campuses, cultural events, academic programs and other sites or activities not usually available to disadvantaged youth; (10) workshops and counseling for parents of students served; and (11) activities to meet specific educational needs of individuals in grades six through eight (34 CFR sections 643.4 and 644.4).

Specific activities may include the following, if reasonably related to the objectives of the Talent Search or EOC project: (1) transportation, meals, and lodging with prior approval for visits to postsecondary educational institutions, participation in "College Day" activities, and career field trips; (2) purchase of testing materials; (3) fees for college admissions applications and entrance examinations with the exceptions noted in 34 CFR sections 643.30(c) and 644.30(c); (4) in-service staff training; (5) rental of space, if space is not owned by

the grantee; and (6) purchase of computer hardware, computer software, or other equipment for student development, project administration, and recordkeeping (34 CFR sections 643.30 and 644.30). Talent Search and EOC funds cannot be used for tuition, fees, stipends, and other forms of direct financial support for project participants (34 CFR 643.31 and 644.31).

5. *Ronald E. McNair Post-Baccalaureate Achievement Program (McNair)* - Allowable project services and activities include: (1) opportunities for research and other scholarly activities designed to provide participants with effective preparation for doctoral study; (2) summer internships; (3) seminars and other educational activities; (4) tutoring; (5) academic counseling; (6) assistance in securing admission to and financial aid for enrollment in graduate programs; (7) mentoring; and (8) exposure to cultural events and academic programs not usually available to project participants. (34 CFR section 647.4).

Allowable project activities may include the following, if reasonably related to carrying out a project: (1) activities of an academic or scholarly nature, such as trips to institutions of higher education offering doctoral programs and special lectures, symposia, and professional conferences, which have as their purpose the encouragement and preparation for project participants for doctoral study; (2) stipends (See "III.E.1.c Eligibility for Individuals"); (3) necessary tuition, room and board, and transportation for students engaged in research internships during the summer; and (4) purchase of computer hardware, computer software, or other equipment for student development, project administration, and recordkeeping (20 USC 1070a-15(e); 34 CFR section 647.30).

6. *Unallowable Costs - All Programs* - The following cost items can never be charged to any TRIO program: (1) tuition, fees, stipends, and other forms of direct financial support for employees; (2) research not directly related to the evaluation or improvement of the project (except for the research activities of McNair participants); and (3) construction, renovation, and remodeling of any facilities (34 CFR sections, 643.31, 644.31, 645.41, 646.31, and 647.31).

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals

- a. *SSS Program Grant Aid to Students* - Grant aid to students is restricted to students who meet all the following criteria: participating in the SSS project, undergoing their first two years of postsecondary education, and receiving Federal Pell Grants. In exceptional cases, grant aid may be offered to students who have completed their first two years of

postsecondary education and are receiving Federal Pell Grants (20 USC 1070a-14(c)).

The amount of grant aid awarded to an SSS student may not exceed the maximum appropriated Pell Grant (\$3,750 for the 2001-02 academic year) or be less than the minimum appropriated Pell Grant (\$400 for the 2001-02 academic year) (20 USC 1070a-14(c)(1)).

- b. *Upward Bound Stipends* - Stipends for regular and math/science projects may not exceed \$40 per month from September to May of the academic year and \$60 for each of the summer months (June, July, and August). Youth participating in a work-study position may be paid a stipend of \$300 per month during June, July, and August. Stipends for participants in Veterans projects may not exceed \$40 per month. To be eligible for a stipend, participants must show evidence of satisfactory participation in project activities, including regular attendance and performance in accordance with standards. Grantees may prorate stipends in accordance with the number of sessions in which a student participated (34 CFR sections 645.40 - 645.42).
- c. *McNair Stipends* - If reasonably related to carrying out a project, stipends of up to \$2,800 per year for students engaged in approved research internships, provided that the student has completed the sophomore year of study at an eligible institution before the internship begins (20 USC 1070a-15(e); 34 CFR section 647.30).

2. Eligibility of Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

An institution that operates an SSS project and uses any portion of its SSS Program grant for grant aid to students must furnish 33 percent of the total funds it uses for that purpose in cash, from non-federal sources. However, institutions eligible to receive funds under Title III, Part A or B, or Title V of the Higher Education Act, as amended, are not required to provide such matching funds (20 USC 170a-14).

2. Level of Effort - Not Applicable

3. Earmarking

An institution operating an SSS project may award up to 20 percent of its Federal SSS Program funds as grant aid to students (20 USC 1070a-14(c)(5)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Only grantees placed on reimbursement are required to complete this form to request payment of grant award funds. The requirement to use this form is imposed on an individual basis.
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transaction Report* - Not Applicable

2. Performance Reporting

- a. *Student Support Services Program Annual Performance Report (OMB No. 1840-0525)* - Grantees must submit an annual performance report to the Department each year of the project period.

Key Line Items - The following line items contain critical information.

- (1) Section II, subsection A, *Number of Participants Assisted During the Report Period*, and subsection B, *Participant Distribution by Eligibility*.
- (2) Section V, *Record Structure for Participant List*, fields:

9	Eligibility
10	Project Entry Date
11	First School Enrollment Date
12	Participant Status
15	College Grade Level (Entry into project)
16	College Grade Level (Current -- at the end of the project year)
19	Academic Standing
20	Enrollment Status at the End of the Project
24	Degree/Certificate Completed

- b. *Upward Bound Math/Science, and Veterans Upward Bound Programs Annual Performance Report (OMB No. 1840-0762)* - Grantees must submit an annual performance report to the Department each year of the project period.

Key Line Items - The following line items contain critical information.

- (1) Section II-A, *Record Structure for Participant List for Upward Bound and Upward Bound Math/Science Projects*, fields:

- 11 Eligibility
- 12 UB Initiative Participant
- 14 Date of First Entry into Project
- 16 Date of Last Program Service (if applicable)
- 18 Participant Status
- 19 Participation Level (for the reporting period only)
- 20 Academic Need
- 24 Grade Level (at time of first entry into project)
- 25 Grade Level (at the end of the reporting period)

- (2) Section II-B, *Record Structure for Participant List for Veterans Upward Bound Projects*, fields:

- 11 Eligibility
- 12 Date of First Entry into Project
- 13 Educational Status (at time of entry into project)
- 16 Participant Status
- 17 Length of Program Participation
- 18 Educational Status (at end of reporting period)

- c. *Talent Search and Educational Opportunity Centers Programs Annual Performance Report (OMB No. 1840-0561)* - Grantees must submit an annual performance report to the Department each year of the project periods.

Key Line Items - The following line items contain critical information.

- (1) Section II, subsection A, *Number of Participants Assisted*
- (2) Section II, subsection B, *Participant Distribution by Eligibility*
- (3) Section II, subsection F, *Participant Distribution by Grade Level*

(4) Section IV, *Project Performance Outcomes, subsection A, Participant Status (At the End of the Reporting Period)*, lines:

- 1 Continued in middle school (TS only)
- 2 Promoted from middle school to high school (TS only)
- 3 Continued in high school (do not include those who graduated)
- 4 Re-entered middle school
- 5 Re-entered high school
- 6 Received high school diploma
- 7 Obtained GED/high school equivalency degree

(5) Section IV, *Project Performance Outcomes, subsection C, Participant Status (at the end of the reporting period)*, lines:

- 1 Enrolled in (or admitted to) a program of postsecondary education
- 2 Re-enrolled in (or re-admitted to) a program of postsecondary education

- d. *Robert E. McNair Postbaccalaureate Achievement Program Performance Report (OMB No. 1840-0640)* - Grantees must submit an annual performance report to the Department each year of the project periods.

Key Line Items - The following items contain critical information.

(1) Section II, *Record Structure for Participant List*, fields:

- 9 Eligibility
- 10 First School Enrollment Date
- 11 Project Entry Date
- 12 Participant Status
- 13 College Grade Level (entry into project)
- 14 College Grade Level (Current -- at the end of the spring/summer term)
- 15 End of Year Enrollment Status (at the end of the spring/summer term)
- 16 Degree

3. Special Reporting - Not Applicable

DEPARTMENT OF EDUCATION**CFDA 84.048 VOCATIONAL EDUCATION - BASIC GRANTS TO STATES
(Perkins III)****I. PROGRAM OBJECTIVES**

Vocational Education - Basic Grants to States provides grants to States and outlying areas to develop the technical, vocational, and academic skills of secondary students and postsecondary students by:

- Promoting the integration of vocational, academic, and technical instruction;
- Developing challenging academic standards;
- Increasing State and local flexibility in providing services and activities designed to develop, implement and improve vocational and technical education, including tech-prep education.

II. PROGRAM PROCEDURES

Participating States must designate or establish a State board of vocational education (referred to in Perkins III as the "sole State agency" or "eligible agency") to administer and supervise State vocational education programs. In order to receive funds for fiscal year (FY) 1999, the State must submit either a one-year transitional or a five-year State plan for vocational education or a unified plan. Any State that submitted a one-year transitional plan in FY 1999 must then submit a four-year plan in FY 2000 to receive funds. For subsequent years, funds are distributed based on the approved plan together with such revisions as the sole State agency determines to be necessary.

The Department of Education (ED) allocates funds to the sole State agency based on a statutory formula. The State must allocate and use funds for the following statutorily prescribed activities or programs (referred to as the "basic programs"):

- (a) Secondary school vocational education programs, postsecondary, and adult vocational education programs (Perkins III, Title I-C);
- (b) State programs and State leadership activities (Perkins III, Section 124);
- (c) State administration (Perkins III, Section 121).

The sole State agency may transfer funds to other State agencies to administer one or more of these programs. A State makes grants to subrecipients, operates programs directly, or contracts for services. Subrecipients submit plans or applications to the State in order to receive funds.

Source of Governing Requirements

This program is authorized by the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins III), as amended, Pub. L. No. 105-332, which is codified at 20 USC 2301 *et seq.* Certain requirements applicable to the Perkins III grants are contained in the Workforce Investment Act of 1998 (WIA), Pub. L. No. 105-220.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

See ED Cross-Cutting Section.

1. *State-Level Activities* - The State plan describes the specific activities to be carried out. Generally allowable activities for a State include:
 - a. *Secondary School Vocational Educational Programs, and Postsecondary and Adult Vocational Education Programs* - A State must distribute all available funds to subrecipients to improve vocational education programs (Perkins III, section 112(a)(1); 20 USC 2322(a)(1)).
 - b. *State Programs and State Leadership Activities* - A State must use funds for: (1) assessing programs conducted with assistance under the Perkins Act; (2) developing, improving, or expanding the use of technology in vocational and technical education; (3) professional development activities; (4) support for strengthening the academic and vocational technical education programs; (5) providing preparation for nontraditional training and employment; (6) supporting partnerships among local educational agencies and other education and business entities assisting students to achieve state academic standards and vocational and technical skills; (7) serving students in state institutions; (8) support for programs for special populations that lead to high-skill, high-wage careers. A State may also use funds for the permissive uses of funds identified in section 124(c) of Perkins III (Perkins III, section 124(b) and (c); 20 USC 2344(b) and (c)).
 - c. *State Administration* - A State may use funds for: (1) developing the State plan; (2) reviewing local applications; (3) monitoring and evaluating program effectiveness; (4) assuring compliance with all applicable Federal laws; and (5) providing technical assistance (Perkins III, section 112(a)(3); 20 USC 2322(a)(3)).

2. *Subrecipient Activities - Secondary School Vocational Educational Program and Postsecondary and Adult Vocational Education Programs* - Funds must be used to improve vocational education programs. The subrecipient plan or approved application describes the specific activities to be carried out. Required uses of funds are identified in Perkins III, section 135(b) and, with respect to required use of funds for one-stop centers by postsecondary subrecipients, in section 134(d)(1)(B) of the Workforce Investment Act of 1998. Examples of other allowable activities are identified in Perkins III, section 135(c) (Perkins III, section 135 (20 USC 2355)).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals - Not Applicable

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

- a. *Secondary School Vocational Education Programs* - A subrecipient must be: (1) a local educational agency (LEA) that is eligible to receive \$15,000 or more; (2) a consortium of LEAs; or (3) an area vocational education school or an educational service agency that meets the requirements in section 131(f) of Perkins III (20 USC 2351(f)). The State must treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were an LEA within the State for the purpose of receiving a distribution under this paragraph (20 USC 2351(i); Perkins III, section 131(i)). The State must provide funds to charter schools offering vocational education programs in the same manner as it provides those funds to other schools; vocational education programs within a charter school must be of sufficient size, scope, and quality to be effective (20 USC 2353(d); Perkins III, section 133(d)). For the definition of "charter school" applicable to Perkins III, see section 10306 of the ESEA of 1965 at <http://www4.law.cornell.edu/uscode/20/8066.text.html>.

For the program year beginning July 1, 1999, and previous program years, unless a State has an approved alternative formula, a State must distribute the amount reserved for the secondary school vocational education programs as follows: (1) 70 percent to each LEA in proportion to the percentage each LEA received of the total funds awarded to LEAs in the State under Title 1, Part A of the ESEA in the preceding fiscal year; (2) 20 percent to each LEA in proportion to the number of students with disabilities who have individualized education programs under section 614(a)(5) of IDEA served by such LEA in the preceding fiscal year compared to the total number of such students served by all LEAs in the State in the preceding fiscal year; and (3) 10 percent to each LEA based on the number of students enrolled in schools plus adults enrolled in vocational educational programs under the jurisdiction of the LEA compared to total student enrollment in K through 12 plus total adult enrollment in vocational educational programs under the jurisdiction of LEAs in the State for the preceding fiscal year (Perkins III, section 131(a); 20 USC 2351(a)).

For the program year beginning July 1, 2000, and subsequent program years, unless a State has an approved alternative formula, a State must distribute the amount reserved for the secondary school vocational education programs as follows: (1) 30 percent to each LEA in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such LEA for the preceding fiscal year compared to the total number of such individuals who reside in the school districts served by all LEAs in the State for such preceding fiscal year; and (2) 70 percent to each LEA in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such LEA from families with incomes below the poverty line applicable to a family of the size involved for the fiscal year for which the determination is made compared to the number of such individuals who reside in the school districts served by all the LEAs in the State for such preceding fiscal year (Perkins III, section 131(b); 20 USC 2351(b)).

LEAs that do not meet the minimum grant requirement of \$15,000 can form consortia with one or more LEAs to meet the minimum grant requirement. The State can also waive the minimum grant requirement for LEAs in rural sparsely populated areas or for public charter schools operating secondary vocational education programs under certain circumstances (Perkins III, section 131(d)(2); 20 USC 2351(d)(2)).

If the State reserves 15 percent or less for this program, it may distribute funds on a competitive basis or through any alternative method (Perkins III, section 133(a); 20 USC 2353(a)).

- b. *Postsecondary and Adult Vocational Education Programs* - A subrecipient must be an eligible institution, including an institution of higher education; an LEA serving adults; an area vocational educational school providing education at the postsecondary level; a postsecondary education institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian Tribe; an educational service agency; or a consortium of 2 or more of these entities (Perkins III, section 132(a)(1); 20 USC 2352(a)(1)).

Unless a State has an approved alternative formula, the State must distribute the amounts reserved for the postsecondary and adult vocational education programs to each eligible institution in proportion to the number of Pell grant recipients and recipients of assistance from the Bureau of Indian Affairs that participated in vocational education programs at that institution in the preceding year compared to the total of such recipients enrolled in those programs in the State in the preceding year. The minimum grant is \$50,000. Amounts allocated to recipients that are less than \$50,000 are to be reallocated to other eligible recipients (Perkins III, section 132(a)-(c); 20 USC 2352(a)-(c)).

Eligible institutions that do not meet the minimum grant requirement of \$50,000 can form consortia with one or more eligible institutions to meet the minimum grant requirement. The State can also waive the minimum grant requirement for eligible institutions in rural sparsely populated areas under certain circumstances (Perkins III, section 132(a)(3) and (4); 20 USC 2352(a)(3) and (4)).

If the State reserves 15 percent or less for this program, it may distribute funds on a competitive basis or through any alternative method (Perkins III, section 133(a); 20 USC 2353(a)).

G. MATCHING, LEVEL OF EFFORT, EARMARKING

1. Matching

State Administration - A State must match, from non-Federal sources and on a dollar-for-dollar basis, the funds reserved for administration of the State plan. The matching requirement may be applied overall, rather than line-by-line, to State administrative expenditures (Perkins III, section 112(b); 20 USC 2322).

2.1 Level of Effort - Maintenance of Effort

- a. *General* - A State must maintain its fiscal effort in the preceding year from State sources for vocational and technical education on **either** an aggregate **or** a per-student basis when compared with such effort in the second preceding year, unless this requirement is specifically waived by the Secretary of Education. For example, to receive its fiscal year 1999 grant award, a State must maintain its level of fiscal effort on either an aggregate

or per-student basis in program year (PY) 1998 (July 1, 1997 - June 30, 1998) at the level of its fiscal effort in PY 1997 (July 1, 1996 - June 30, 1997). An example of how a State may maintain effort on a per-student basis, but not in the aggregate, is as follows:

In PY 1997, a State spends \$50 million from State funds to provide vocational education to 300,000 students. In PY 1998, the State spends only \$49 million to provide vocational education to 290,000 students. Even though the State's aggregate effort decreased by \$10 million, the State's per-student effort increased from \$166.67 per student to \$168.97 per student. Thus, the State met the maintenance of effort requirement for its fiscal year 1999 grant (Perkins III, section 311(b)(1)(A); 20 USC 2391).

If a State has been granted a waiver of the maintenance of effort requirement that allows it to receive a grant for a fiscal year, the maintenance of effort requirement for the year after the year of the waiver is determined comparing the amount spent for vocational education from non-Federal sources in the first preceding fiscal year (or program year) with the amount spent in the third preceding fiscal year (or program year) (Perkins III, section 311(b)(2); 20 USC 2391).

In computing the fiscal effort or aggregate expenditures, a State must exclude capital expenditures, special one-time project costs, and the cost of pilot programs (Perkins III, section 311(b)(1)(B); 20 USC 2391(b)(1)(B)).

Decrease in Federal Support - If the amount made available for vocational and technical education programs under the Act for a fiscal year is less than the amount made available for vocational and technical education programs under this Act for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of a State for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available (20 USC 2391(b)(1)(C); Perkins III, section 311(b)(1)(C)).

- b. *Administration* - A State must provide from non-Federal sources for State administration under the Perkins Act an amount that is not less than the amount provided by the State from non-Federal sources for State administrative costs for the preceding fiscal or program year (Perkins III, section 323(a); 20 USC 2391(a)).

Decrease in Federal Support - If the amount made available for administration of programs under the Act for a fiscal year is less than the amount made available for administration of programs under this Act for the preceding fiscal year, the amount the eligible agency is required to provide from non-Federal sources for costs the eligible agency incurs for

administration of programs shall be decreased by the same percentage (Perkins III, section 311(b)(1)(C); 20 USC 2391(b)(1)(C)).

2.2 Level of Effort - *Supplement Not Supplant*

The State and its subgrantee may use funds for vocational and technical education activities that shall supplement, and shall not supplant, non-Federal funds expended to carry out vocational and technical education activities and tech-prep activities (Perkins III, section 311(a); USC 2391(a)). The examples of instances where supplanting is presumed to have occurred that are described in section III.G.2.2. of the ED Cross-Cutting Section (84.000) also apply to the vocational education program.

Notwithstanding the above paragraph, funds made available under Perkins III may be used to pay for the costs of vocational and technical education services required in an individualized education plan (IEP) developed pursuant to section 614(d) of the Individuals with Disabilities Education Act (IDEA) and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational and technical education (Perkins III, section 325(c); 20 USC 2415(c)).

3. Earmarking

- a. *States* - Subject to the requirements discussed below regarding the minimum amount for State administration, a State must reserve the following percentages:
 - (1) Secondary school programs, together with postsecondary and adult vocational education programs - not less than 85 percent. A State must distribute all of these funds to its subrecipients. A State may reserve no more than 10 percent of the 85 percent of funds to make grants to serve eligible subrecipients in at least two of the following four areas: (1) rural areas; (2) areas with high percentages of vocational education students; (3) areas with high numbers of vocational education students; or (4) communities negatively impacted by the amendment made to the secondary distribution formula (Perkins III, section 112(a) and (c), sections 131(a) and (b) and section 132(a); 20 USC 2322(a) and (c), 2351(a) and (b), and 2352(a)).
 - (2) State leadership activities - not more than 10 percent. Within the State leadership activities not more than 1 percent of the amount allocated to each State in section 111 (20 USC 2321) shall be allotted to activities that serve individuals in State Institutions. Also, not less than \$60,000 and not more than \$150,000 of the amount allocated to each State in section 111 shall be made

available for services that prepare individuals for nontraditional training and employment.

- (3) State administration - not more than 5 percent or \$250,000, whichever is greater, for administration of the State plan (20 USC 2322 (a); Perkins III, section 112(a)).

- b. *Subrecipients* - Subrecipients under the secondary school vocational education programs and postsecondary and adult vocational education programs may use no more than 5 percent of those funds for administrative costs (Perkins III, section 135(d); 20 USC 2355(d)).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

- a. SF-269 - *Financial Status Report* - Applicable only for the program year beginning July 1, 1998, and previous program years.
- b. SF-270 - *Request for Advance or Reimbursement* - Only grantees placed on reimbursement are required to complete this form to request payment of grant award funds. The requirement to use this form is imposed on an individual recipient basis.
- c. SF-271 - *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272 - *Federal Cash Transactions Report* - Not Applicable
- e. *Financial Status Report (Form II) for the Consolidated Annual Performance, Accountability, and Financial Status Report (OMB Form 1830-0503)* - This replaces the SF -269 for program years beginning on or after July 1, 1999.
- f. LEAs and other subrecipients are generally required to report financial information to the pass-through entity. These reports should be tested during audits of LEAs.

2. Performance Reporting

Accountability Report (Form IV) Consolidated Annual Performance, Accountability, and Financial Status Report (OMB No. 1830-0503)

Each year a grantee must file an accountability report containing data to be used in determining whether it met its adjusted performance levels for each of its core indicators of performance and any State indicators of performance. Each grantee must provide data for each subindicator of the four core indicators: (1) attainment of academic and vocational skills; (2) attainment of diploma or credential; (3) placement and retention; and (4) participation in, preparation for, and completion of programs leading to non-traditional occupations. Each grantee's subindicators for each program year are contained in the "Final Agreed-Upon Baseline and Adjusted Levels of Performance," which are incorporated by reference into the grantee's State plan and grant award and transmitted to the grantee with the grant award documents. Grantees that exceed their adjusted performance levels are eligible for an incentive grant (Section 113(b)(2)(A) of Perkins III (20 USC 2323(b)(2)(A))).

Key Line Items - The Grand Total line for each indicator level are key line items which contain critical information.

LEAs and other subrecipients must submit data to the grantee for the grantee's report. The grantee determines the format of the data submissions. These submissions should be tested during audits of LEAs.

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Schoolwide Programs

See ED Cross-Cutting Section

DEPARTMENT OF EDUCATION**CFDA 84.126 REHABILITATION SERVICES - VOCATIONAL REHABILITATION
GRANTS TO STATES****I. PROGRAM OBJECTIVES**

The purpose of Title I of the Rehabilitation Act of 1973, as amended (Act), which authorizes the State Vocational Rehabilitation (VR) Services Program, is to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable VR programs, each of which is:

- An integral part of a statewide workforce investment system; and
- Designed to assess, plan, develop, and provide VR services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for and engage in gainful employment. (Section 100(a)(2) of the Act (29 USC 720(a)(2)))

II. PROGRAM PROCEDURES

Federal funds are distributed to the States on a formula basis with the States required to provide a 21.3 percent match. The program is administered by an agency designated by the State as having overall administrative responsibility for the VR program. If the designated State agency is not an agency primarily concerned with VR, or vocational and other rehabilitation of individuals with disabilities, it must include a designated State unit within the agency that is responsible for the designated State agency's VR program (State VR Agency).

The States must submit to the Rehabilitation Services Administration (RSA) a State Plan that provides both assurances and descriptions that are required by Title I of the Act and the implementing regulations (34 CFR part 361). The State Plan is one of the key bases of RSA's monitoring of the State's administration of the VR program.

Services are provided either directly by State VR Agency staff or purchased from community-based vendors. Services, except those of an assessment nature, are provided under the Individualized Plan for Employment (IPE), as determined by the individual, which can be developed by the individual, or with assistance provided by others, including a qualified VR counselor employed by the State VR Agency, to achieve an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities and informed choice.

The Workforce Investment Act of 1998, as amended (WIA), requires the VR program to collaborate with other workforce development, educational, and human resource programs in a one-stop service delivery system. The WIA's objective is to create a seamless delivery system by linking the agencies operating these programs in order to provide universal access to the programs operated by each agency. While the one-stop system operates as a common portal for

gaining access to these programs, each program provides its respective services to persons meeting its respective eligibility criteria.

Agencies responsible for administering the programs whose services are delivered in a one-stop system are known as "partners;" those whose participation is mandated by the WIA, including the State VR agency, are "required partners." Each partner must enter into a Memorandum of Understanding (MOU) with the Local Workforce Investment Board regarding the operation of the one-stop system. The MOU covers the services to be provided through the one-stop system, funding for those services and for the system's administrative costs, and the methods for referring individuals between one-stop operators and partners. It establishes how each partner will participate in the one-stop system and share in the cost of operating it. Each partner's resources may be used only for: (a) services that are authorized under that partner's program and delivered to clients eligible for those services; and (b) administrative costs allocable to the partner's program.

In addition to the MOU required by the WIA, the Rehabilitation Act requires that a State VR agency's State Plan provide for a network of cooperative agreements binding that agency's central and local offices to the central and local offices, respectively, of the other partners in the one-stop service delivery system. States can choose to use the same document to meet the requirements for both the MOU and the cooperative agreements. As used henceforth in this discussion, "MOU" refers to whatever document(s) a State agency uses to meet these requirements.

Source of Governing Requirements

The VR program is authorized by Title I of the Rehabilitation Act of 1973, as amended (29 USC 701 *et seq.*). The Rehabilitation Act Amendments of 1998 are found in Title IV of the WIA. Program regulations are found at 34 CFR part 361. In addition, the Education Department General Administrative Regulations (EDGAR) at 34 CFR parts 74, 76, 77, 79, 80, 81, 82, 85, and 86 apply to this program. Requirements in 20 CFR part 662 (Description of the One-Stop Service Delivery System) also apply to the extent that VR activities are being conducted as part of a one-stop service delivery system.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed Or Unallowed

1. Services To Individuals

Services provided under the VR program are any services described in an IPE necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and

informed choice of the individual. Section 103(a) of the Act (29 USC 723(a)) contains examples of the types of services that can be provided.

2. Services to Groups

The State VR Agency may provide other services to groups of individuals with disabilities (Section 103(b) of the Act (29 USC 723(b))).

- a. In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.
- b. Community Rehabilitation Programs - The establishment, development, or improvement of a public or other nonprofit community rehabilitation program including, under special circumstances, the construction of a facility for a public or nonprofit community rehabilitation program.
- c. The provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any one individual with a disability.
- d. Telecommunications systems that have the potential for substantially improving vocational rehabilitation service delivery methods and developing appropriate programming to meet the particular needs of individuals with disabilities.
- e. Special services to provide nonvisual access to information for individuals who are blind, including telecommunications, Braille, sound recordings or other appropriate media; captioned television, films, or video cassettes for individuals who are deaf or hard of hearing; tactile materials for individuals who are deaf-blind; and other special services that provide information through tactile, vibratory, auditory, and visual media.
- f. Technical assistance and support services to businesses that are not subject to Title I of the Americans with Disabilities Act of 1990, and that are seeking to employ individuals with disabilities.
- g. Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

3. Participation in a One-Stop Service Delivery System

Any service or administrative cost charged to the VR program through its participation in the one-stop service delivery system must be: (a) allowable under the program's authorizing statute and regulations; (b) allocable to the program under the State VR agency's cost allocation plan; and (c) consistent with the MOU between the State VR agency and the Local Workforce Investment Board. The MOU is the primary vehicle by which the State VR agency sets forth how it will participate in the one-stop service delivery system and how it will share in the cost of operating the system (29 USC 2841(b)(1)(B)(iv); 34 CFR section 361.4; 20 CFR part 662; Notice: *Resource Sharing for Workforce Investment Act One-Stop Centers: Methodologies for Paying or Funding Each Partner Program's Fair Share of Allocable One-Stop Costs*, issued May 31, 2001 (66 FR 29637)).

The MOU identifies the resources the State VR agency will provide for compliance with 20 CFR section 662.270, which requires the VR program to support a fair share of the one-stop system's common administrative costs. The amount provided must be proportionate to the use of the system by individuals attributable to this program. The MOU may provide for cash payments of billings from the one-stop operator, or for providing goods and services that benefit the system's operation. Examples of goods and services that the VR agency may provide for this purpose include: making VR staff available to provide training or technical assistance to other partners in such areas as disability, accessibility, adaptive equipment, and rehabilitation engineering; VR staff participation in cooperative efforts with employers to promote job placement (such as job analysis and employer visits); and applying VR staff and other resources to the VR program's participation in information and financial management systems that link all partners to one another.

C. Cash Management

See ED Cross-Cutting Section

E. Eligibility

1. Eligibility of Individuals

An individual is eligible for VR services if the individual (1) has a physical or mental impairment that, for the individual, constitutes or results in a substantial impediment to employment; (2) can benefit in terms of an employment outcome from VR services; and (3) requires VR services to prepare for, secure, retain, or regain employment (Section 102(a)(1) of the Act (29 USC 722(a)(1))).

An individual who is a beneficiary of Social Security Disability Insurance or a recipient of Supplemental Security Income is presumed to be eligible for VR services (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities,

capabilities, interests, and informed choice of the individual) unless the State VR Agency can demonstrate by clear and convincing evidence that such individual is incapable of benefitting in terms of an employment outcome from VR services due to the severity of the disability of the individual (Section 102(a)(3) of the Act (29 USC 722(a)(3))).

An individual is presumed to be able to benefit in terms of an employment outcome from VR services unless the State VR Agency can demonstrate by clear and convincing evidence that the individual is incapable of benefitting in terms of an employment outcome from VR services due to the severity of the individual's disability. This determination must be made through the use of trial work experiences with appropriate supports provided by the State VR Agency, except under limited circumstances when the individual can not take advantage of such experiences (Section 102(a)(2) of the Act (29 USC 722(a)(2))).

The State VR Agency must determine whether an individual is eligible for VR services within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless (Section 102(a)(6) of the Act (29 USC 722(a)(6))):

1. Exceptional and unforeseen circumstances beyond the control of the State VR agency preclude making an eligibility determination within 60 days and the State agency and the individual agree to a specific extension of time; or
2. The State VR Agency is exploring an individual's abilities, capabilities, and capacity to perform in work situations through trial work experiences in order to determine the eligibility of the individual or the existence of clear and convincing evidence that the individual is incapable of benefitting in terms of an employment outcome from VR services.

The State may choose to consider the financial need of eligible individuals or individuals who are receiving services during a trial work experience or an extended evaluation for the purposes of determining the extent of their participation in the cost of VR services. The State may not consider financial need when providing services described in 34 CFR 361.54(b)(3). If the State indicates in its State Plan that it will use financial need tests for one or more types of VR services, it must apply such tests in accordance with its written policies uniformly to all individuals under similar circumstances. The policies may require different levels of need for different geographic regions in the State, but must be applied uniformly to all individuals within each geographic region (34 CFR section 361.54).

2. **Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable**
3. **Eligibility for Subrecipients - Not Applicable**

G. Matching, Level of Effort, Earmarking

1. Matching

- a. The State share of expenditures made by the State VR Agency under the State Plan, including expenditures for the provision of VR services and the administration of the State Plan is 21.3 percent (Sections 7(14) and 111(a)(1) of the Act (29 USC 705(14) and 731(a)(1))).
- b. The Federal share of expenditures made for the construction of a facility for community rehabilitation program purposes may not be more than 50 percent of the total cost of the project (34 CFR section 361.60(a)(2)).

2.1 Level Of Effort - *Maintenance of Effort*

- a. The amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State Plan for the previous fiscal year are less than the total of such expenditures for the fiscal year two years prior to the previous fiscal year. For example, for fiscal year 2001, a State's maintenance of effort level is based on the amount of its expenditures from non-Federal sources for fiscal year 1999. Thus, if the State's non-Federal expenditures in fiscal year 2001 are less than they were in fiscal year 1999, the State has a maintenance of effort deficit, and the Secretary reduces the State's allotment for fiscal year 2002 by the amount of that deficit (Section 111(a)(2)(B) of the Act (29 USC 731(a)(2)); and 34 CFR section 361.62).
- b. If the State Plan provides for the construction of a facility for community rehabilitation program purposes, the amount of the State's share of expenditures for a fiscal year for VR services under the Plan, other than for the construction of a facility for community rehabilitation program purposes or the establishment of a facility for community rehabilitation purposes, must be at least equal to the State's share of those expenditures for the second prior fiscal year (34 CFR section 361.62).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking - Not applicable

H. Period of Availability of Federal Funds

Federal funds appropriated for a fiscal year remain available for obligation in the succeeding fiscal year only to the extent that the State VR Agency met the matching requirement for those Federal funds by obligating, in accordance with 34 CFR section 76.707, the non-Federal share in the fiscal year for which the funds were appropriated. Any program income received during a fiscal year that is not obligated by the State VR Agency by the end of that fiscal year, will remain available for obligation by the State VR

Agency during the succeeding fiscal year (Section 19 of the Act (29 USC 716); 34 CFR section 361.64).

J. Program Income

Sources of program income include, but are not limited to, payments from the Social Security Administration for rehabilitating Social Security beneficiaries, payments received from workers' compensation funds, fees for services to defray part or all of the costs of services provided to particular individuals, and income generated by a State-operated community rehabilitation program.

Except as indicated below, program income, whenever earned, must be used for the provision of VR services and the administration of the State Plan under the State Vocational Rehabilitation Services Program. Program income is considered earned when it is received (Section 108 of the Act (29 USC 728); and 34 CFR 361.63(c)).

The State VR Agency is authorized to treat program income as a deduction from total allowable costs or as an addition to the grant funds to be used for additional allowable program expenditures, in accordance with 34 CFR sections 80.25(g)(1) or (2) (34 CFR section 361.63).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Only grantees placed on reimbursement are required to complete this form to request payment of grant award funds. The requirement to use this form is imposed on an individual recipient basis.
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. RSA-2, *Program Cost Report (OMB No. 1820-0017)*. State VR agencies submit the RSA-2 annually.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF EDUCATION**CFDA 84.181 SPECIAL EDUCATION -- GRANTS FOR INFANTS AND FAMILIES WITH DISABILITIES****I. PROGRAM OBJECTIVES**

The purposes of the Individuals with Disabilities Education Act (IDEA), Part C (Part C) are: (a) to develop and implement a statewide, comprehensive, coordinated, multi disciplinary interagency system that provides early intervention services for infants and toddlers with disabilities and their families; (b) to facilitate the coordination of payment for early intervention services from Federal, State, local and private sources (including public and private insurance coverage); (c) to enhance the State's capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; (d) to encourage States to expand opportunities for children under the age of three years who would be at risk of having substantial developmental delay if they did not receive early intervention services; and (e) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically under represented populations, particularly minority, low-income, inner-city, and rural populations (20 USC 1431(b); 34 CFR section 303.1).

II. PROGRAM PROCEDURES

Generally, the State is responsible for maintaining and implementing a statewide system to identify, evaluate and provide early intervention services to eligible children and their families. Such a system includes a public awareness and child find system, development and implementation of an individualized family service plan for eligible children, maintenance of a central directory of information about early intervention services, personnel development and contracting for or otherwise providing services to eligible children and their families.

A State must have an approved application that provides required assurances and describes the statewide system and related policies. The State designates a lead agency that is responsible for administering, and supervising activities funded by this program. Program services may be carried out by the lead agency, other State agencies, or by public or private organizations either under contract to the State or through other arrangements with such agencies. The lead agency also monitors activities that are covered by the program, whether or not they are funded by this program. The State also must establish a State Interagency Coordinating Council that, among other things, advises and assists the lead agency in the development and implementation of policies and achieving participation, cooperation, and coordination of all appropriate public agencies in the State.

The amount of a State's allocation under Part C for a fiscal year is based on its proportion of the general population of infants and toddlers, from birth through two years, in the State (i.e., the ratio of the number of infants and toddlers in the State compared to the number of infants and toddlers in all the States).

Source of Governing Requirements

This program is authorized under 20 USC 1431 through 1445. Implementing regulations specific to this program are 34 CFR part 303.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for details of the requirements.

Certain compliance requirements which apply to multiple Department of Education (ED) programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

The approved application describes the activities to be carried out. Generally, allowable activities for a State, include (20 USC 1438; 34 CFR section 303.3):

1. Maintaining a statewide, comprehensive, coordinated, multi-disciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.
2. Providing direct early intervention services for infants and toddlers with disabilities and their families, that are otherwise not funded through other public or private sources.
3. Expanding and improving on services under Part C that are otherwise available for infants and toddlers and their families.
4. Providing a free appropriate public education, in accordance with Part B of the IDEA, to children with disabilities from their third birthday to the beginning of the following school year.
5. In any State that does not provide services for at risk infants and toddlers, to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purpose of: (a) identifying and evaluating at-risk infants and toddlers; (b) making referrals of the infants and toddlers identified and evaluated; and (c) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant and toddler for services.

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking**1. Matching - Not Applicable****2.1 Level of Effort - *Maintenance of Effort***

The total amount of State and local funds budgeted for expenditure in the current fiscal year for early intervention services for children eligible under Part C and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowances may be made for: (1) decreases in the number of children who are eligible to receive Part C early intervention services; and (2) unusually large amounts of funds expended for such long-term purposes such as the acquisition of equipment and the construction of facilities (20 USC 1437(b)(5); 34 CFR section 303.124).

Although this requirement is identified as a supplement not supplant requirement in the law and regulation, this Supplement classifies this type of requirement as maintenance of effort.

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable**3. Earmarking - Not Applicable****H. Period of Availability of Funds**

See ED Cross-Cutting Section.

L. Reporting**1. Financial Reporting**

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *Report of Infants and Toddlers Receiving Early Intervention Services In Accordance With Part C (OMB Form 1820 -0557)* - The Lead Agency in each State is required to report to the Secretary no later than February 1 of each year the number of infants and toddlers from birth through age two (children who have not reached their third birthday) receiving early intervention services according to an individualized family service plan on December 1 of the prior year (20 USC 1418 and 1435(a)(14)).

Key Line Items - The following line items contain critical information.

Table 1 - Total row

Table 2 - Total column

Table 3 - Total column

DEPARTMENT OF EDUCATION**CFDA 84.186 SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES--STATE GRANTS (Title IV, Part A, Subpart 1 of ESEA)****I. PROGRAM OBJECTIVES**

The objective of the Safe and Drug-Free School program authorized by the Safe and Drug-Free Schools and Communities Act (SDFSCA), contained in Title IV of ESEA, is to support programs to meet the seventh National Education Goal by preventing violence in and around schools and by strengthening programs that prevent the illegal use of alcohol, tobacco, and drugs, involve parents, and are coordinated with related Federal, State, and community efforts and resources.

II. PROGRAM PROCEDURES

In general, SDFSCA funds are allocated to States based on their relative share of school-aged population and Title I funds. Of each State's annual allocation amount, 80 percent is awarded to the State Educational Agency (SEA) for programs described in Section 4113 of the SDFSCA and 20 percent is awarded to the Governor for programs described in Section 4114 of the SDFSCA. On the grant documents the Department of Education (ED) codes these programs with an "A" following the CFDA number to indicate a grant to the SEA program and a "B" following the CFDA number to indicate a grant to the Governor's program. However, these are treated as one program under OMB Circular A-133.

SEAs may use a portion of the funds they receive for administrative activities and to carry out State-level program activities. The majority of the funds received by an SEA must be distributed to local educational agencies (LEAs) for drug and violence prevention activities. A portion of the amount required to be distributed to LEAs is required to be distributed to the LEAs that the SEA determines have the "greatest need." LEAs must submit an application which would include, among other things, how it will use the funds.

Governors also may use a portion of the funds they receive for administration. Excluding the percentage of funds reserved for administration, Governors must make grants to, or enter into contracts with eligible entities for drug and violence prevention activities. In addition, a portion of the Governor's funds must be used for law enforcement education partnerships. Governors may have another state agency, including an SEA, administer the program on their behalf. No matter who administers the program, the program remains the responsibility of the Governor's office (Sections 4113 and 4114 of the SDFSCA; 20 USC 7113 and 7114).

Source of Governing Requirements

This program is authorized by Title IV, Part A, Subpart 1 of the Elementary and Secondary Education Act of 1965, codified at 20 USC 7111-7118, 7133, and 7143. There are no program regulations. However, this program is subject to the Education Department General Administrative Regulations (EDGAR) at 34 CFR parts 76, 77, 79, 80, 81, 82, 85, 97, 98, and 99.

Availability of Other Information

The Department issued non-regulatory guidance to assist in the administration of this program. That guidance, and other program information, are available on the internet at <http://www.ed.gov/offices/OESE/SDFS>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the Department of Education (ED) Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. Use of Funds by SEAs

An SEA may use funds for State-level programs and for making subgrants to LEAs. An SEA may use the funds reserved for State-level programs for activities including providing training and technical assistance, conducting demonstration projects, making available cost-effective prevention programs to LEAs, providing financial assistance to enhance resources in some areas, and meeting other special needs consistent with the purposes of SDFSCA. The list (see below) of authorized State-level program activities found in Section 4113(b)(1) of the SDFSCA does not exclude other activities that may be carried out by the SEA, consistent with the purposes of SDFSCA. An SEA may carry out activities in Section 4113(b)(1) directly, or through grants or contracts.

An SEA may not use SDFSCA funds for construction, or to provide medical services, drug treatment, or rehabilitation. As stated in Section 4133 of the SDFSCA, pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs are not included in the prohibition (Section 4133 of the SDFSCA (20 USC 7143)).

List of authorized State Level program activities found in Section 4113(b)(1) of the SDFSCA:

- a. Training and technical assistance concerning drug and violence prevention for LEAs and educational service agencies, including

teachers, administrators, coaches and athletic directors, other staff, parents, students, community leaders, health service providers, local law enforcement officials, and judicial officials;

- b. The development, identification, dissemination, and evaluation of the most readily available, accurate, and up-to-date curriculum materials (including videotapes, software, and other technology-based learning resources), for consideration by LEAs;
- c. Making available to LEAs cost-effective programs for youth violence and drug abuse prevention;
- d. Demonstration projects in drug and violence prevention;
- e. Training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;
- f. Financial assistance to enhance resources available for drug and violence prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart; and
- g. The evaluation of activities carried out within the State under this part.

2. Uses of Funds by LEAs

An LEA may use SDFSCA funds to carry out a broad range of drug and violence prevention programs. SDFSCA provides a general framework for LEA prevention efforts by requiring that SDFSCA funds be used to support comprehensive drug and violence prevention programs that: (1) are designed for all students and employees to prevent the use, possession, and distribution of tobacco, alcohol, and illegal drugs by students; prevent the illegal use, possession, and distribution of tobacco, alcohol, and illegal drugs by employees; prevent violence and promote school safety; create a disciplined environment conducive to learning; and (2) include activities to promote the involvement of parents and coordination with community groups and agencies.

Authorized activities found in Section 4116(b) of the SDFSCA are listed below. Other activities may be carried out by the LEA, consistent with the purposes of SDFSCA. Such activities specifically include mentoring, before- and after-school instructional, recreational, cultural, and artistic programs. Note that comprehensive school health education activities may be implemented only to the extent that such activities are part of an LEA's comprehensive drug and violence prevention program (Section 4116(b) of the SDFSCA (20 USC 7116(b))).

An LEA may not use SDFSCA funds for construction, or to provide medical services, drug treatment, or rehabilitation. As stated in Section 4133 of the SDFSCA, pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs are not included in the prohibition (Section 4133 of the SDFSCA (20 USC 7133)).

List of authorized activities found in Section 4116(b):

- a. Age-appropriate, developmentally based drug prevention and education programs for all students, from the pre-school level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;
- b. Programs of drug prevention, comprehensive health education, early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include -the dissemination of information about drug prevention; -the professional development of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services or rehabilitation referral; -the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, such as family counseling; early intervention activities that prevent family dysfunction, enhance school performance, and boost attachment to school and family; and activities, such as community service and service-learning projects, that are designed to increase students' sense of community;
- c. Age-appropriate, developmentally based violence prevention and education programs for all students, from the pre-school level through grade 12, that address the legal, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, and victimization, associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence;
- d. Violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include: -the dissemination of information about school safety and discipline; -the professional development of school personnel, parents, students, law enforcement officials, judicial officials, and

community leaders in designing and implementing strategies to prevent school violence; -the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies), and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse; -the development and implementation of character education programs, as a component of a comprehensive drug or violence prevention program, that are tailored by communities, parents and schools; and -comprehensive, community-wide strategies to prevent or reduce illegal gang activities;

- e. Supporting "safe zones of passage" for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;
- f. Acquiring and installing metal detectors and hiring security personnel;
- g. Professional development for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;
- h. The promotion of before- and after-school recreational, instructional, cultural, and artistic programs in supervised community settings;
- i. Drug abuse resistance education programs, designed to teach students to recognize and resist pressures to use alcohol and other drugs, which may include activities such as classroom instruction by uniformed law enforcement officers, resistance techniques, resistance to peer pressure and gang pressure, and provision for parental involvement; and
- j. The evaluation of any of the activities authorized for LEAs.

3. Uses of Funds by Governor's Program

A Governor may use SDFSCA funds for a broad range of drug and violence prevention programs that may be carried out by parent groups, community action and job training agencies, community-based organizations, and other public and private nonprofit entities and organizations. The list (see below) of authorized activities found in Section 4114(c) does not exclude other activities that may be carried out by such organizations, consistent with the purposes of Subpart 1.

Specifically included are mentoring, before- and after-school instructional, recreational, cultural, and artistic programs (Section 4114(c) of the SDFSCA (20 USC 7114(c))).

A Governor's grantee or contractor may not use SDFSCA funds for construction, or to provide medical services, drug treatment, or rehabilitation. As stated in Section 4133 of the SDFSCA, pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs are not included in the prohibition (Section 4133 of the SDFSCA (20 USC 7133)).

List of authorized activities found in Section 4114 (c):

- a. Disseminating information about drug and violence prevention;
- b. Training parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, comprehensive health education, early intervention, pupil services or rehabilitation referral;
- c. Developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, community service, mentoring, and other appropriate services;
- d. Planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;
- e. Activities to protect students traveling to and from school;
- f. Before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence- free lifestyles;
- g. Activities that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;
- h. Developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;
- i. Coordinating and conducting community-wide violence and safety assessments and surveys;
- j. Service-learning projects that encourage drug- and violence-free lifestyles; and

- k. Evaluating programs and activities assisted under Section 4114.

4. Rural Education Achievement Program (REAP) (LEAs)

REAP provides authorization to spend all or part of funds under certain programs for activities authorized in other programs. After notification to the SEA, an LEA which meets both of the following requirements may spend all or part of this program's funds for activities authorized in Title I Grants to Local Educational Agencies (LEAs) (84.010); Eisenhower Professional Development State Grants (84.281); and Technology Literacy Challenge Fund Grants (84.318) (See the program sections of "A. Activities Allowed or Unallowed" in this Supplement for the respective compliance requirements):

- a. Have an Average Daily Attendance of less than 600 students; and
- b. All of the schools in the LEA have been coded as rural schools by the National Center for Educational Statistics (NCES code 7 or 8) (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-89, December 21, 2000).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

1. **Eligibility for Individuals** - Not Applicable
2. **Eligibility for Groups of Individuals or Areas of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients**

As discussed in III.G.3.(a), Earmarking, State-level programs, administrative costs, initial allocations to LEAs, of the minimum 91 percent of an SEA's total allocation that must be distributed to its LEAs, 30 percent of funds must be awarded to LEAs with "greatest need." In determining LEAs with the "greatest need" for additional funds for drug and violence prevention programs, an SEA must have selected objective criteria to assess which LEAs in their State have the greatest need for additional funding (Section 4113(d) of the SDFSCA (20 USC 7113(d))).

G. Matching, Level of Effort, Earmarking**1. Matching - Not Applicable****2.1 Level of Effort - *Maintenance of Effort* (SEAs/LEAs)**

See ED Cross-Cutting Section.

2.2 Level of Effort - *Supplement not Supplant* - Not Applicable**3. Earmarking**

Also, see ED Cross-Cutting Section.

(a) *State-level programs, administrative costs, initial allocations to LEAs (SEAs)*

An SEA may reserve not more than five percent of its total allocation for State level programs, to be carried out directly, or through grants and contracts. Not more than four percent of an SEA's total allocation may be used for administrative costs. Funds not used for administration or State-level programs must flow to LEAs (Sections 4113(b)(1) and (c) of the SDFSCA).

A minimum of 91 percent of an SEA's total allocation must be distributed to its LEAs. Of the 91 percent available for distribution to LEAs, an SEA must initially allocate 70 percent to LEAs based on their relative share of enrolled students in public and private nonprofit elementary and secondary schools.

(b) *Allocation of "greatest need" funds (SEAs)*

The remaining 30 percent (of the minimum 91 percent) of funds must be awarded to LEAs with "greatest need," as determined by the SEA. Where appropriate and consistent with a State's needs assessment, not less than one-quarter of the "greatest need" funds must be distributed to LEAs in rural and urban areas (Section 4113(d) of the SDFSCA (20 USC 7113(d))).

If an LEA does not apply for its allocation of the 70 percent, of the minimum 91 percent of SDFSCA funds that are to be distributed based on relative enrollments, or if the SEA disapproves an LEA's application for those funds, the SEA must reallocate that LEA's funds to one or more of the LEAs that received "greatest need" funds (Section 4113 (e) of the SDFSCA (20 USC 7113(e))).

(c) *Distribution of "greatest need" funds to LEAs*

An SEA may distribute the "greatest need" funds to no more than 10 percent of its LEAs, or five LEAs, whichever is greater (the cap). An SEA may award funds to individual LEAs or to a consortia of LEAs or educational service agencies. Each individual LEA that receives funds or services from the "greatest need" pool of funds must be counted against the cap on the number of LEAs receiving funds from the pool. If an award is made to a consortia, the SEA may select from two options to determine how the cap is calculated and how LEAs in consortia are counted against the cap.

In the first method, the SEA includes the total number of LEAs in the State in the calculation of the cap, and must count every LEA receiving funds or services supported with SDFSCA "greatest need" funds (whether in consortia or not) as an individual LEA against the cap. For example, a consortium providing services to seven LEAs would be counted against the cap as seven LEAs, not one LEA.

Alternatively, if the consortium is the same entity that receives SDFSCA State Grant funds distributed under Section 4113(d)(2)(i), the SEA could count the consortium as a single LEA in calculating the cap and the consortium would count as one LEA against the cap. (Section 4113(d) of the SDFSCA (20 USC 7113(d))).

(d) *Cap on security devices and security personnel (LEAs)*

An LEA may acquire and install metal detectors and hire security personnel as authorized activities under SDFSCA. However, (1) LEAs may not use more than 20 percent of their SDFSCA funds to acquire or install metal detectors, to hire security personnel, or to support "safe zones of passage" for students between home and school; and (2) LEAs may use funding for these purposes only if funding for such activities is not received from other Federal agencies (Section 4116(c) of the SDFSCA (20 USC 7116(c))).

(e) *Administrative costs and law enforcement education partnerships (Governor's Programs)*

A Governor may use no more than five percent of the total allocation for administrative activities. At least 10 percent of the Governor's funds must be awarded for law enforcement education partnerships (Section 4114(a)(2) and (3) of the SDFSCA (20 USC 7114(a)(2) and (3))).

H. Period of Availability of Federal Funds (SEAs/LEAs/Governor's Programs)

Also, see ED Cross-Cutting Section.

An LEA may retain up to 25 percent of its fiscal year allocation for obligation in the next Federal fiscal year. If an LEA wishes to retain an amount greater than 25 percent of its fiscal year allocation for use in a succeeding year, it must demonstrate good cause for such a carryover to its SEA, and the SEA must approve the request for additional carryover (Section 4113(f) of the SDFSCA (20 USC 7113(f))).

L. Reporting**1. Financial Reporting (SEAs/LEAs/Governor's Programs)**

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable**3. Special Reporting - Not Applicable****N. Special Tests and Provisions****1. Participation of Private School Children (SEAs/LEAs)**

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION**CFDA 84.276 GOALS 2000 -- STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT GRANTS****I. PROGRAM OBJECTIVES**

The objective of the Goals 2000: Educate America Act is to help States and districts reform their education systems through the development and implementation of comprehensive school improvement plans based on high standards and expectations for all students.

II. PROGRAM PROCEDURES

State educational agencies (SEAs) in the 50 States, the District of Columbia, Puerto Rico, the Bureau of Indian Affairs, and the Outlying Areas are eligible to apply for funds under this program. Grants are awarded to States on a formula basis; 50 percent according to each State's relative share of funds under Title I of the Elementary and Secondary Education Act (ESEA) for the preceding fiscal year; and the remaining 50 percent according to the State's relative share of funds under Title VI of the ESEA (with minor adjustments to exclude Title I and Title VI funds allocated to the outlying areas). The Bureau of Indian Affairs (BIA) and the Outlying Areas receive their allotments from a one-percent set-aside of the funds appropriated for the program.

The SEA retains a portion of its allotments for State-level activities to develop, revise, expand or implement its State improvement plan. The SEA awards the remaining funds on a competitive basis to LEAs or consortia of LEAs in the following three categories: (1) local reform activities (section 309(a) subgrants), (2) preservice teacher training and (3) professional development (both (2) and (3) are awarded under section 309(b)). Subgrant funds must be awarded in each of the three categories, but the SEA determines the amount of funds to be awarded in each category. All subgrants must be of sufficient size, scope, duration and quality to carry out the purposes of the Act. The SEA may conduct individual competitions for each category of subgrants, or combined competitions in which subgrant recipients receive awards in more than one category. (LEAs in Oklahoma and Montana apply directly to the U.S. Department of Education for Goals 2000 funding because their SEAs do not participate in Goals 2000.)

An LEA seeking first year funding for development or implementation of a local improvement plan must submit to its SEA an application with assurances that it will develop a plan that meets the requirements of Section 309(a) of the Act. An LEA seeking subsequent year funding must include in its application a comprehensive local improvement plan for district wide education improvement. An LEA may receive only one subgrant to develop a local improvement plan, but may receive additional subgrants to implement it.

Source of Governing Requirements

This program is authorized by Goals 2000: Educate America Act, Pub. L. No. 103-227, as amended by Improving America's School Act of 1994 (Pub. L. No. 103-382) and the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. No. 104-134), codified at 20 USC 5881, *et seq.* This program is subject to the Education Department General Administrative Requirements in 34 CFR parts 76, 77, 79, 81, 82, 85 and 86. There are no program regulations.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section

1. *SEAs* - The following are allowable costs:
 - a. In the first year a State participates in Goals 2000, the SEA may use funds to develop, revise, expand or implement its State improvement plan. During succeeding years, the SEA may use funds to implement the State improvement plan (20 USC 5888).
 - b. Administrative costs which include costs of conducting subgrant competitions, as well as the costs of monitoring. (20 USC 5888)
 - c. Subgrants to LEAs or consortia of LEAs as follows:
 - (1) To develop or implement local improvement plans (section 309(a) of the Act (20 USC 5889(a)));
 - (2) To improve preservice teacher education programs in cooperation with institutions of higher education or nonprofit institutions, (section 309(b) of the Act (20 USC 5889(b))); and
 - (3) To support continuing professional development of educators, school administrators, or related services personnel in cooperation with institutions of higher education or nonprofit institutions, (section 309(b) of the Act (20 USC 5889(b))).

2. *LEAs*

- a.. *Section 309(a) Subgrants* - Funds may be used to support individual school improvement initiatives, including developing and implementing school improvement plans. Also funds are to be used to develop a local improvement plan or for any LEA activities approved by the SEA that are reasonably related to carrying out the State or local improvement plans (20 USC 5889(a)(6)).
- b. *Section 309(b) Subgrants* - An LEA must use funds awarded under section 309(b) for activities described in its approved application, supporting the improvement of preservice teacher education and school administrator programs and the development and implementation of new and improved forms of continuing and sustained professional development (20 USC 5889(b)).
- c. In addition to the above, an LEA may use funds under both Sections 309(a) and (b) for administrative expenses (20 USC 5889(a)(6)(C)).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section

C. Cash Management

See ED Cross-Cutting Section

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort*

Each recipient of funds under Title III of Goals 2000, in utilizing the proceeds of an allotment received under Title III, must maintain its expenditures for the activities assisted under Title III at a level equal to or not less than the level of expenditures maintained by the recipient for the fiscal year preceding the fiscal year for which the allotment was received (20 USC 5884(d)).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

a. SEAs

- (1) *Subgrants* - At least 90 percent must be awarded competitively to LEAs. Up to 10 percent may be retained by the SEA for state activities. (In the first year, at least 60 percent must be awarded competitively to LEAs and up to 40 percent may be retained by the SEA for state activities) (20 USC 5888(a)).

If there are a sufficient number of applications for development or implementation of local improvement plans, at least 50 percent of the funds awarded under section 309(a) of the Act must be granted to LEAs that have a greater percentage or number of disadvantaged children than the statewide average percentage or number for all LEAs in the State. In addition, each year at least one urban LEA and one rural LEA must be awarded a grant for local plan development or implementation (20 USC 5889(a)(1)(B) and 5889(c)).

- (2) *Administrative Costs* - No more than 4 percent or \$100,000, whichever is greater, can be used for administrative costs (20 USC 5888(c)).

b. LEAs

- (1) *Section 309(a) Subgrants* - During the first year an LEA receives a local improvement subgrant, it must use at least 75 percent of its subgrant funds to support individual school improvement initiatives. The remaining funds are to be used to develop a local improvement plan or for any LEA activities approved by the SEA that are reasonably related to carrying out the State or local improvement plans (20 USC 5889(a)(6)).

In subsequent years that an LEA receives a grant, at least 85 percent of the funds must be made available to individual schools to develop and implement comprehensive school improvement plans designed to help all children reach high academic standards. The remaining funds are to be used for any activities approved by the SEA that are reasonably related to carrying out the State or local improvement plans (20 USC 5889 (a)(6)).

At least 50 percent of the funds made available by the LEA to individual schools must be for schools with a special need for the assistance in accordance with criteria developed by the LEA (20 USC 5889(a)(6)(B)).

- (2) *Administrative Expenses* - No more than 5 percent of the funds may be spent on administrative expenses (20 USC 5889(a)(6)(C)).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Participation of Private Schools

Compliance Requirement - Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary and secondary schools an SEA or LEA using Title III funds for teacher and administrator training must provide for the training of teachers and administrators in private schools (20 USC 5890(a)(2)).

Audit Objective - Determine whether the SEA or LEA provided for the training of teachers and administrators in private schools when required.

Suggested Audit Procedures

- a. Review the State or local plan and expenditure records to ascertain if Title III funds were used for teacher and administrator training. If not, no further work is needed
- b. Review documentation demonstrating that training of teachers and administrators in private schools was provided and was in the proper proportion.

2. Schoolwide Programs

See ED Cross-Cutting Section

3. Priority of Preservice Teacher Education and Professional Development Subgrants (SEA)

Compliance Requirement - In awarding subgrants for preservice teacher education and professional development, an SEA must give priority to: (1) LEAs or consortia of LEAs

that serve a greater number or percentage of disadvantaged students than the statewide average number or percentage; (2) to LEAs or consortia of LEAs that form partnerships with collegiate educators to establish professional development sites; and (3) to LEAs or consortia of LEAs that focus on upgrading teachers' knowledge of content areas or target teachers of students with limited-English proficiency and students with disabilities (20 USC 5889(b)(1)(B)).

Audit Objective - Determine whether the SEA gave priority when awarding subgrants for preservice teacher education and professional development.

Suggested Audit Procedures

- a. Review the SEA's procedures for identifying LEAs or consortia that meet the statutory criteria. Also, review procedures for awarding subgrants for preservice teacher education and professional development to ascertain if they address giving priority to LEAs or consortia that meet the statutory criteria.
- b. Review a sample of subgrant awards to ascertain if the SEA's procedures for giving priority to these LEAs/consortia were followed.

**DEPARTMENT OF EDUCATION
DEPARTMENT OF LABOR**

CFDA 84.278 SCHOOL-TO-WORK OPPORTUNITIES

I. PROGRAM OBJECTIVES

The purpose of the School-to-Work (STW) Opportunities Act of 1994, Pub. L. No. 103-239, is to provide seed capital to States and localities for developing and implementing comprehensive STW Opportunities systems that will provide all students with the academic and occupational skills necessary to prepare them for first jobs in high-skill, high-wage careers, and to increase their opportunities for further education and training. The Secretary of Labor and the Secretary of Education jointly administer the STW Act in a flexible manner to promote State and local discretion in establishing and implementing statewide STW Opportunities systems. The authority to award STW grants to State and local entities terminated October 1, 2001 (Section 802 of the STW Act, 20 USC 6251). However, State and local grantees may continue to use funds to operate STW projects until the funding periods for such awards end.

II. PROGRAM PROCEDURES

No program regulations have been issued for grants awarded under this legislation. However, grantees are bound by the STW Act, and grant agreements. Grants are awarded by either the Department of Education (ED) or the Department of Labor (DOL). However, this is treated as one program under OMB Circular A-133. The six different types of grants funded under the STW Act are described below.

State Development Grants (Title II, Subtitle A (20 USC 6121 *et. seq.*)): These non-competitive grants assist States in planning and developing comprehensive Statewide STW Opportunities systems.

State Implementation Grants (Title II, Subtitle B (20 USC 6141 *et. seq.*)): These competitive grants assist States in the implementation of comprehensive Statewide STW Opportunities systems. These grants are renewable for up to five years. States are required to subgrant most of the funding to local partnerships. Local partnerships submit applications to the State.

Local Partnership Grants (Title III, Section 302(a) (20 USC 6172(a))): These one year competitive grants provide funds directly to local partnerships in order to fund communities that are ready to begin implementing a local STW Opportunities system .

Urban/Rural Opportunities Grants (Title III, Section 302(b) (20 USC 6172(b))): These competitive grants provide funds to local partnerships to implement STW Opportunities programs in high poverty areas of urban and rural communities.

Grants to Indian Youth (Title II, Section 221): These competitively funded grants establish and implement STW Opportunities systems that involve schools funded by the Bureau of Indian Affairs.

Grants to Territories (Title II, Section 202(b) (20 USC 6122(b)): These grants develop and implement STW Opportunities systems in the Territories.

A "local partnership" is the grantee or subgrantee that is responsible for implementing and operating local STW Opportunities programs. A local partnership must meet the statutory definition in Section 4(11) of the STW Act and must include: (a) employers; (b) representatives of local educational agencies and local postsecondary educational institutions; (c) local educators; (d) representatives of labor organizations or nonmanagerial employee representatives; and (e) students. A local partnership may include other entities.

Additional information on this program is available through the Internet on the STW home page (<http://www.stw.ed.gov>).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. State Agencies

- a. *State Development Grants* - States are authorized to use State Development Grants only for activities to develop a statewide STW Opportunities system. Allowable activities include identifying resources, analyzing data, developing approach, and promoting involvement. Section 205 of the STW Act (20 USC 6125) contains specific examples of the types of activities that develop a statewide system (Section 205 of the STW Act (20 USC 6125)).
- b. *State Implementation Grants* - States subgrant the majority of State Implementation Grant funds. States may use the remainder of State Implementation Grants for activities to implement the Statewide STW Opportunities System. Allowable activities include outreach, training, technical assistance and designing model curricula or programs. Section 215 (c) of the STW Act (20 USC 6145) contains specific examples of the types of activities that implement a Statewide system (Section 215(c) of the STW Act (20 USC 6145)).

2. Local Partnerships

State Implementation Grants or Local Partnership Grants: Local partnerships are authorized to use funds provided through subgrants from a State Implementation Grant or a Local Partnership Grant only for activities undertaken to implement STW Opportunities systems. Allowable activities include outreach, training,

technical assistance, and designing models or programs. Local partnerships can provide for supplementary and support services, such as child care and transportation, when such services are necessary for participation. Section 215 of the STW Act (20 USC 6145(b)(4)) contains specific examples of the types of activities that local partnerships can undertake (Section 215 of the STW Act (20 USC 6145)).

3. Unallowable activities (States and Local Partnerships)

STW Act grant funds cannot be expended for wages of students or workplace mentors participating in such programs (Section 601 of the STW Act) (20 USC 6231).

C. Cash Management

See ED Cross-Cutting Section

E. Eligibility

1. Eligibility for Individuals - Not Applicable

2. Eligibility for Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

State Implementation Grants - A local partnership that received a Local Partnership Grant directly from either DOL or ED cannot receive a State Implementation subgrant for that same grant year. The local partnership may receive a State Implementation subgrant in later years. This provision does not apply retroactively. If the local partnership received a subgrant from a State Implementation grant prior to receiving the Local Partnership Grant, the local partnership may keep both the local grant and the subgrant. A local partnership that received a Urban/Rural Opportunities Grant directly from DOL or ED may receive a State Implementation subgrant for the same grant year (Section 215(b)(1)(B) of the STW Act (20 USC 6145(b)(1)(B))).

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - Maintenance of Effort

State Development Grants - The amount of State funds expended per student, or in the aggregate, by the State for STW activities, for the preceding fiscal year can not be less than 90 percent of the amount so expended for the second preceding fiscal year. For example, level of effort for FY 1996 is determined by comparing the funds expended either per student or in the aggregate in FY 1995 to those

expended in FY 1994. This requirement can be waived by the Secretary of Education and the Secretary of Labor under the terms of Section 206(b) of the STW Act (Section 206 of the STW Act (20 USC 6126(b))).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

a. *State Implementation Grants (States)*

- (1) In the first fiscal year in which a State receives a State Implementation Grant, the State must use 70 percent or more of the first year funds to provide subgrants to local partnerships. In the second fiscal year, the State must use 80 percent or more of second year funds to provide subgrants to local partnerships. In the third fiscal year and in each succeeding fiscal year in which the State receives a State Implementation Grant, the State must use 90 percent or more of third and succeeding year funds to provide subgrants to local partnerships (Section 215(b)(7) of the STW Act (20 USC 6145(b)(7))).
- (2) No more than 10 percent of the amounts received through the grant for a fiscal year may be used for State administrative costs. Administrative costs means the activities of a State or local partnership that are necessary for the proper and efficient performance of its duties under the STW Act and that are not directly related to the provision of services to participants or otherwise among the system's allowable activities listed in section 215(b)(4) and section 215(c) of the STW Act (Section 217 of the STW Act (20 USC 6147); May 18, 1995 *Federal Register* (Vol. 60, Number 96), page 26813).

b. *State Implementation Grants - Local Partnerships*

A 10 percent limit on administrative costs applies. Administrative costs may be either personnel costs or non-personnel costs, and direct or indirect (Section 215 of the STW Act (20 USC 6145 (b)(6))).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Only grantees placed on reimbursement are required to complete this form to request payment of

grant award funds. The requirement to use this form is imposed on an individual recipient basis.

- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. Local Education Agencies (LEAs) and other subrecipients are generally required to report financial information to the pass-through entity. These reports should be tested during audits of LEAs.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Core Components (*Local Partnerships Grants*)

Compliance Requirement - As provided in the STW Act, a STW Opportunities system must incorporate three components: school-based learning (Section 102 of the STW Act (20 USC 6112)), work-based learning (Section 103 of the STW Act (20 USC 6113)), and connecting activities (Section 104 of the STW Act (20 USC 6114)). The specific activities selected by a State or local partnership to implement these components are described in the approved application (Sections 101, 215(b)(2), and 303(c) of the STW Act (20 USC 6111, 6145(b)(2) and 6173(c)).

Audit Objective - Determine whether the non-Federal entity implemented a school-based learning component, a work-based learning component, and connecting activities component, as described in its approved application.

Suggested Audit Procedures

- a. Review the approved application to identify the activities supporting each of the required components.
- b. Review records documenting that the activities described in the approved application were implemented.

DEPARTMENT OF EDUCATION

CFDA 84.281 EISENHOWER PROFESSIONAL DEVELOPMENT STATE GRANTS (Title II, Part B of ESEA)

I. PROGRAM OBJECTIVES

The objective of Eisenhower Professional Development State Grants (Eisenhower Program), Title II of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Improving America's Schools Act of 1994 (Pub. L. No. 103-382), is to provide funds to State educational agencies (SEAs), local educational agencies (LEAs), State agencies for higher education (SAHEs), institutions of higher education (IHEs), and qualified nonprofit organizations (NPOs) to support sustained and intensive high-quality professional development for educators in the core academic subjects.

II. PROGRAM PROCEDURES

Eisenhower Program funds are obtained by a State on the basis of the Department's approval of either (1) an individual State plan as provided in Section 2205 of the ESEA, or (2) a consolidated plan that includes the Eisenhower Program, in accordance with Section 14302 of the ESEA. Separate grants are provided to SEAs and SAHEs. Of the total State allocation, the SEA receives 84 percent and the SAHE 16 percent.

LEAs apply to the SEAs for program funds. The SEAs allocate funds to LEAs based on the relative enrollment in public and private nonprofit elementary and secondary schools and the relative amounts the LEAs received under Part A of Title I for the previous year.

The SAHE makes competitive grants to, or enters into contracts or cooperative agreements with, IHEs and NPOs of demonstrated effectiveness in order to provide professional development activities that contribute to the State plan.

Source of Governing Requirements

This program is authorized by Title II, Part B of the ESEA (20 USC 6641- 6651). General provisions in Title II, Part D of the ESEA (20 USC 6701 - 6702) also apply to this program. Additional program requirements are found in Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000. While there are no program regulations, the following parts of the Education Department General Administrative Regulations (EDGAR) apply to this program: 34 CFR parts 76, 77, 80, 82, 85, and 86. General ESEA requirements in 34 CFR part 299 also apply.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the Department of Education (ED) Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. SEAs

- a. SEAs can use funds for State administration, for State-level activities, and to provide subgrants to LEAs. Examples of allowable State-level activities are listed in Section 2207 of the ESEA. The SEA must have records that provide a description of the general nature of the uses of Title II funds in support of program purposes (Sections 2203(1)(a) and 2207 of the ESEA (20 USC 6643(1)(A) and 6647); 34 CFR sections 76.730 and 76.731).
- b. SEAs whose FY 2001 program allocations exceed their FY 2000 program allocations may use the excess funds to make subgrants to partnerships of entities such as LEAs, IHEs, and private businesses to recruit, prepare, provide professional development to, and help retain school principals and superintendents (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).
- c. SEAs retain their portion of the \$45 million Congress appropriated in FY 2001 Eisenhower State Formula Grant Program funds, and must use these funds to implement either:
 - (1) The Title I accountability system required by section 1111 of Title I of the ESEA; or
 - (2) The requirements for State eligibility under the Ed-Flex Partnership Act of 1999 (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).

2. LEAs

- a. Funds are to be used for professional development activities of teachers, and where appropriate administrators, pupil support personnel and parents in a manner that is consistent with the LEA's application, any school plan under Title 1, Part A and any other plan for professional development activities. Examples of allowable activities are shown in Section 2210(b)(3) of the ESEA. The LEA must have records that provide a

description of the general nature of the services to be provided with Title II funds in support of the program purpose (Section 2210 of the ESEA (20 USC 6650); 34 CFR sections 76.730 and 76.731).

- b. LEAs whose FY 2001 program allocations exceed their FY 2000 program allocations must use some of the excess funds to reduce the percentage of teachers who:
 - (1) Do not have State certification or are certified through emergency or provisional means;
 - (2) Are teaching out of field in some subject areas and grade levels in which they teach; or
 - (3) Lack sufficient content knowledge to teach effectively in the areas they teach (Title III of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-33, December 21, 2000).

3. SAHEs and their Subrecipients

- a. SAHEs can use funds for State administration (five percent) and to make subgrants to, or enter into contracts or cooperative agreements with IHEs and NPOs for professional development activities. Allowable activities of subrecipients include provision of professional development to teachers and, where appropriate, others; other professional development activities related to the achievement of the State plan for professional development; and preservice training activities (Sections 2203 and 2211 of the ESEA (20 USC 6643 and 6651)).
- b. SAHEs whose FY 2001 program allocations exceed their FY 2000 program allocations can make subgrants with excess funds to partnerships of entities such as LEAs, IHEs, and private businesses to recruit, prepare, provide professional development to, and help retain school principals and superintendents (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).

4. Rural Education Achievement Program (REAP) (LEAs)

REAP provides authorization to spend all or part of funds under certain programs for activities authorized in other programs. After notification to the SEA, an LEA which meets both of the following requirements may spend all or part of this program's funds for activities authorized in Title I Grants to Local Educational Agencies (LEAs) (84.010); Safe and Drug-Free Schools and Communities--State Grants (84.186); and Technology Literacy Challenge Fund Grants (84.318) (See the program sections of "A. Activities Allowed or Unallowed" in this Supplement for the respective compliance requirements):

- a. Have an Average Daily Attendance of less than 600 students; and
- b. All of the schools in the LEA have been coded as rural schools by the National Center for Educational Statistics (NCES code 7 or 8) (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-89, December 21, 2000).

B. Allowable Costs/Cost Principles (All grantees)

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals - Not Applicable

2. Eligibility for Groups of Individuals or Areas of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

a. SEAs

Any LEA receiving a grant of less than \$10,000 must form a consortium with another LEA or an educational service agency serving another LEA to be eligible to receive Eisenhower Program funds. SEAs may waive the consortium requirement for LEAs that can demonstrate that the amount of their allocation is sufficient to provide a program of sufficient size, scope, and quality to be effective (Section 2204 of the ESEA (20 USC 6644)).

b. SAHEs

Subrecipients must be either IHEs or NPOs. (Section 2211 of the ESEA (20 USC 6651)), or partnerships of entities such as LEAs, IHEs, and private businesses (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).

G. Matching, Level of Effort, Earmarking

1. Matching (LEAs)

Each LEA must provide not less than 33 percent of the cost of the activities assisted under the Eisenhower Program, excluding the cost of services provided to private school teachers. In other words, each participating LEA must match every

two dollars in Federal funding with one dollar of its own resources, which can come from other Federal programs, such as Title I of the ESEA, or from non-Federal sources (Section 2209 of the ESEA (20 USC 6649)).

2.1 Level of Effort - *Maintenance of Effort* (SEAs/LEAs)

See ED Cross-Cutting Section.

2.2 Level of Effort - *Supplement not Supplant* - Not Applicable

3. Earmarking

Also, see ED Cross-Cutting Section.

a. *Within-State allocations* (SEAs)

The SEA distributes, by a formula similar to the initial Federal allocation, at least 90 percent of its allocation to the LEAs within the State. SEAs must ensure that their share of the first \$250 million of the total program appropriation in a given fiscal year is used for professional development in mathematics and science. ED provides States with allocation tables that outline the specific breakouts for the use of funds to support professional development activities in mathematics and science (Sections 2203 and 2206 of the ESEA (20 USC 6643 and 6646)).

b. *Within-State allocations* (SAHEs)

The SAHE distributes at least 95 percent of its allocation in the form of competitive subgrants to IHEs or NPOs of demonstrated effectiveness. SAHEs must ensure that their share of the first \$250 million of the total program appropriation in a given fiscal year is used for professional development in mathematics and science. With regard to FY 2001 program funds it receives in excess of its FY 2000 allocation (as described in "III.A.1.b Activities Allowed or Unallowed"), the SAHE distributes at least 95 percent in competitive subgrants to IHEs, NPOs, or to partnerships of such entities as LEAs, IHEs, and private businesses (Sections 2203, 2206, and 2211 of the ESEA (20 USC 6643, 6646, and 6651); Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).

c. *Administration* (SEAs and SAHEs)

Both the SEA and SAHE may reserve up to five percent of their allocations for administration. The SEA may reserve up to an additional five percent of its allocation to carry out State-level professional development activities in support of the State's professional development

plan (Sections 2203, 2207, and 2211 of the ESEA (20 USC 6643, 6647, and 6651)).

d. *Exception* (SEAs)

The SEA's share of \$45 million in FY 2001 program funds awarded to the SEA for activities that help to implement State accountability systems or requirements for State eligibility under the Ed-Flex Partnership Act of 1999 (as described in "III.A.1.c Activities Allowed or Unallowed") is not subject to earmarking requirements (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).

H. Period of Availability of Federal Funds (All grantees)

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Participation of Private School Children (SEAs/LEAs)

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION**CFDA 84.282 CHARTER SCHOOLS****I. PROGRAM OBJECTIVES**

The objective of the Public Charter Schools Program (PCSP), authorized under Title X, Part C of the ESEA, is to increase national understanding of the charter schools model by (1) providing financial assistance for the planning, program design, and initial implementation of public charter schools; (2) expanding the number of high-quality charter schools available to students across the Nation; (3) evaluating the effects of charter schools; and (4) disseminating information about charter schools and successful practices in charter schools.

II. PROGRAM PROCEDURES

Generally, PCSP funds are awarded on a competitive basis to State educational agencies (SEAs) in States with specific statutes authorizing charter schools. SEAs use their PCSP funds to award subgrants to eligible applicants (authorized public chartering agencies in partnership with charter school developers) for planning, program design, and initial implementation of charter schools; and to support the dissemination of information about, and successful practices in, charter schools. If an eligible SEA elects not to participate in this program, or its application is not approved, eligible applicants that serve the State may apply directly to the Secretary.

Grants awarded to SEAs are for a period not to exceed three years. Once a three-year grant is over, an SEA may apply for a subsequent three-year grant. Planning and initial implementation grants awarded to eligible applicants by the Secretary and subgrants awarded by SEAs are awarded for a period not to exceed three years, of which not more than 18 months may be used for planning and not more than two years may be used for implementation. Grants or subgrants to charter schools for dissemination activities are made for a period not to exceed two years.

A charter school is limited to receiving not more than one grant or subgrant for planning and initial implementation activities and not more than one grant or subgrant for dissemination activities. A charter school may apply to the SEA for funds to carry out dissemination activities if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including substantial progress in improving student achievement; high levels of parent satisfaction; and the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school. A charter school may receive a dissemination grant, whether or not the charter school has applied for or received funds under the PCSP for planning or implementation.

Source of Governing Requirements

This program is authorized by Title X, Part C of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Charter School Expansion Act of 1998 (20 USC 8061, *et seq.*). This program is subject to the Department of Education's General Administrative Regulations at 34 CFR parts 75, 76, 77, 79, 80, 81, 82, 85, 86, and 99. There are no program specific regulations. However, 34 CFR sections 76.785 through 76.799 prescribe administrative

requirements that States and local educational agencies must follow when allocating funds to charter schools.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeated in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. *Use of Funds by SEAs*

Funds must be used for State administration expenses and subgrants to eligible applicants. Funds may also be used to establish a revolving loan fund for eligible applicants that have received grants, State dissemination activities and administrative costs of the program. See III. G.3. Earmarking for limitations on amounts that can be used for these activities (20 USC 8064(f)(1), (4), and (5)).

2. *Use of Funds by Eligible Applicants*

Each eligible applicant may use these funds in accordance with its approved application to plan and implement a charter school, or to disseminate information about the charter school and successful practices in charter schools (20 USC 8064(f)).

An eligible applicant receiving a PCSP grant or subgrant may use funds for (a) post-award planning and design of the educational program, which may include-- (i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and (ii) professional development of teachers and other staff who will work in the charter school; and (b) initial implementation of the charter school, which may include-- (i) informing the community about the school; (ii) acquiring necessary equipment and educational materials and supplies; (iii) acquiring or developing curriculum materials; and (iv) other initial operational costs that cannot be met from State or local sources (20 USC 8064(f)(3)).

A charter school receiving funds for dissemination activities may use funds to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as-- (a) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school; (b) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership; (c) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and (d) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools (20 USC 8064(f)(6)).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

1. **Eligibility for Individuals** - Not applicable
2. **Eligibility for Groups of Individuals or Areas of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients**

A non-SEA eligible applicant for planning and initial implementation funds is an authorized public chartering agency participating in a partnership with a developer to establish a public charter school. Such a public charter school is a public school that provides a program of elementary or secondary education, or both; is nonsectarian and does not charge tuition; complies with federal and State Civil Rights laws; and is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply than can be accommodated. The term "developer" means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators, and other school staff, parents, or other members of the local community in which a charter school project will be carried out. A for-profit entity does not qualify as an eligible applicant for the purposes of the PCSP. However, a PCSP grant recipient may enter into a contract with a for-

profit entity for the day-to-day management of the charter school (20 USC 8066(2) and (3)).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**

Also, see ED Cross-Cutting Section.

Each SEA receiving a grant may reserve not more than 5 percent of these funds for administrative expenses associated with the charter school grant program (20 USC 8064(f)(4)).

The SEA must provide 95 percent of the grant funds to eligible applicants in the State for planning and initial implementation activities or for State dissemination activities. Not more than 10 percent of the grant amount may be used to establish a revolving loan fund for eligible applicants that have received a PCSP grant and not more than 10 percent of the grant amount may be reserved for dissemination activities (20 USC 8064(f)(1) and (5)).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. **Financial Reporting**
See ED Cross-Cutting Section.
2. **Performance Reporting** - Not Applicable
3. **Special Reporting** - Not Applicable

DEPARTMENT OF EDUCATION**CFDA 84.287 TWENTY-FIRST CENTURY COMMUNITY LEARNING CENTERS****I. PROGRAM OBJECTIVES**

The objective of this program is to provide expanded learning opportunities for participating children and community members in a safe and supervised environment before and after school, weekends and in the summer. The 21st Century Community Learning Centers program provides grants to local educational agencies (LEAs) to enable rural and inner-city public schools to become community learning centers and to keep children safe in the after-school hours. They provide students with access to homework centers and tutors in the core academic subjects as well as cultural enrichment, recreational, technology, and nutritional opportunities. In addition, life-long learning activities are available for community members in a local school setting.

II. PROGRAM PROCEDURES

The Secretary of Education awards 21st Century Community Learning Center Grants through a competitive grant process to rural and inner-city public elementary or secondary schools, consortia of such schools, or LEAs on their behalf. If more than one entity is party to the grant, one of the entities will be designated as the fiscal agent. For purposes of audits under OMB Circular A-133, the fiscal agent is treated as the recipient of the grant.

Source of Governing Requirements

This program is authorized under Title X, Part I, of the Elementary and Secondary Education Act (ESEA) (20 USC 8241-8247) and is subject to the Education General Administrative Regulations in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

A grantee under this program must do the following in carrying out a grant award in order to provide allowable services: (1) implement the project described in its approved application; and (2) expend the funds in accordance with the terms of the approved budget (34 CFR sections 75.234, 80.20, and 80.22).

LEAs must provide 4 of the following 13 activities, but may also provide other services to the community (20 USC 8245).

- Literacy education programs;
- Senior citizen programs;
- Children's day care services;
- Integrated education, health, social service, recreational, or cultural programs;
- Summer and weekend school programs in conjunction with recreation programs;
- Nutrition and health programs;
- Expanded library service hours to serve community needs;
- Telecommunications and technology education programs for individuals of all ages;
- Parenting skills education programs;
- Support and training for child day care providers;
- Employment counseling, training, and placement;
- Services for individuals who leave school before graduating from secondary school, regardless of the age of such individual; and
- Services for individuals with disabilities.

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**

See ED Cross-Cutting Section

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting**1. Financial Reporting**

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable**3. Special Reporting - Not Applicable****N. Special Tests and Provisions****1. Schoolwide Programs**

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION**CFDA 84.288 BILINGUAL EDUCATION--PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS****CFDA 84.290 BILINGUAL EDUCATION--COMPREHENSIVE SCHOOL GRANTS****CFDA 84.291 BILINGUAL EDUCATION--SYSTEMWIDE IMPROVEMENT GRANTS****I. PROGRAM OBJECTIVES****Program Development and Implementation Grants (CFDA 84.288)**

Develop and implement new comprehensive, coherent, and successful bilingual education or special alternative instructional programs for limited English proficient (LEP) students, including programs of early childhood education, kindergarten through twelfth grade education, gifted and talented education, and vocational and applied technology education (Title VII, Section 7112 of the ESEA (20 USC 7422)).

Comprehensive School Grants (CFDA 84.290)

Implement schoolwide bilingual education programs or special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all (or virtually all) children and youth of limited English proficiency in schools with significant concentrations of such children and youth (Title VII, Section 7114 of the ESEA (20 USC 7424)).

Systemwide Improvement Grants (CFDA 84.291)

Implement districtwide bilingual education programs or special alternative instruction programs to improve, reform, and upgrade relevant programs and operations, within an entire local educational agency (LEA), that serve a significant number of children and youth of limited English proficiency in local educational agencies with significant concentrations of such children and youth (Title VII, Section 7115 of the ESEA (20 USC 7425)).

II. PROGRAM PROCEDURES

The Secretary of Education awards Bilingual Education grants through a competitive grant process to the following eligible entities: one or more LEAs; one or more LEAs in collaboration with an institution of higher education, community-based organization, or State educational agency (SEA); and, in some circumstances, a community-based organization or an institution of higher education that has received approval from an LEA. If more than one entity is party to the grant, one of the entities will be designated as the fiscal agency. For purposes of audits under OMB Circular A-133, the fiscal agency is treated as the recipient of the grant.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to

identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the Department of Education (ED) Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

A grantee under these programs must do the following in carrying out a grant award in order to provide allowable services: (1) implement the project described in its approved application; and (2) expend the funds in accordance with the terms of the approved budget (34 CFR sections 75.234, 80.20 and 80.22).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort* - Not Applicable

2.2 Level of Effort - *Supplement not Supplant*

See ED Cross-Cutting Section.

3. Earmarking - Not Applicable

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Participation of Private School Children (SEAs/LEAs)

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION

CFDA 84.298 INNOVATIVE EDUCATION PROGRAM STRATEGIES (Title VI of ESEA)

I. PROGRAM OBJECTIVES

The objectives of Title VI of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Improving America's Schools Act of 1994, are to: (1) assist local educational reform efforts which are consistent with and support statewide reform efforts under Goals 2000: Educate America Act; (2) support State and local efforts to accomplish the National Education Goals; (3) provide funding to enable State Educational Agencies (SEAs) and Local Educational Agencies (LEAs) to implement promising educational reform programs; (4) provide a continuing source of innovation, and educational improvement, including support for library services and instructional and media materials; and (5) meet the special educational needs of at-risk and high cost students (Title VI, Section 6001(b) of the ESEA (20 USC 7301(b))).

II. PROGRAM PROCEDURES

Title VI funds are obtained by a State following submission of an application or consolidated plan to the Secretary of Education that satisfies the application requirements as stipulated in the statute. The SEA distributes at least 85 percent of the funds to its LEAs that have filed an application that meets certain requirements. These funds are distributed to LEAs according to the relative enrollments in public and private, nonprofit schools within the school districts of the LEAs, adjusted to provide higher per pupil allocations to those LEAs with children whose education imposes a higher than average cost per child. The criteria for making these adjustments must be approved by the Secretary of Education. LEAs have complete discretion, subject only to legal requirements, in determining the allocation of expenditures of Title VI funds among the allowable program activities (Title VI, Sections 6102 and 6303(c) of the ESEA (20 USC 7312 and 7353(c))).

Source of Governing Requirements

This program is authorized by Title VI of the Elementary and Secondary Education Act, as amended by the Improving America's Schools Act of 1994 (20 USC 7301 *et seq.*). There are no program regulations. However, the following parts of the Education Department General Administrative Regulations (EDGAR) apply to this program: 34 CFR parts 76, 77, 80, 81, 82, and 85.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the Department of Education (ED) Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. SEAs

SEAs may reserve for State use not more than 15 percent of the Title VI funds allocated to the state. These funds may be used for technical assistance, direct grants, statewide education reform activities which assist LEAs in providing targeted assistance programs, support for planning, design and initial implementation of charter schools, and administration. Administration includes supervising of the allocation of funds to LEAs; planning, supervising and processing of State funds; and, monitoring and evaluating programs and activities (Title VI, Section 6201(a) of the ESEA (20 USC 7331(a))).

The remaining 85 percent must be distributed to LEAs (Section 6102(a) of the ESEA (20 USC 7312(a))).

(See III.G.3, for testing of Earmarking requirement.)

2. LEAs

LEAs must use Title VI funds only for one or more of the innovative assistance program areas described in Title VI, Section 6301(b) of the ESEA (20 USC 7351(b)). The innovative assistance program areas are:

- (i) Technology related to the implementation of school-based reform programs, including professional development to assist teachers and other school officials regarding how to use effectively such equipment and software;
- (ii) Programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials which are tied to high academic standards and which will be used to improve student achievement and which are part of an overall education reform program;
- (iii) Promising education reform projects, including effective schools and magnet schools;

- (iv) Programs to improve the higher order thinking skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;
- (v) Programs to combat illiteracy in the student and adult population, including parent illiteracy;
- (vi) Programs to provide for the educational needs of gifted and talented children;
- (vii) School reform activities that are consistent with the Goals 2000: Educate America Act;
- (viii) Planning, design and initial implementation of charter schools; and
- (ix) School improvement programs or activities under sections 1116 and 1117 of the ESEA.

3. Rural Education Achievement Program (REAP) (LEAs)

REAP provides authorization to spend all or part of funds under certain programs for activities authorized in other programs. After notification to the SEA, an LEA which meets both of the following requirements may spend all or part of this program's funds for activities authorized in Title I Grants to Local Educational Agencies (LEAs) (84.010); Safe and Drug-Free Schools and Communities--State Grants (84.186); Eisenhower Professional Development State Grants (84.281); and Technology Literacy Challenge Fund Grants (84.318) (See the program sections of "A. Activities Allowed or Unallowed" in this Supplement for the respective compliance requirements):

- a. Have an Average Daily Attendance of less than 600 students; and
- b. All of the schools in the LEA have been coded as rural schools by the National Center for Educational Statistics (NCES code 7 or 8) (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-89, December 21, 2000).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking**1. Matching - Not Applicable****2.1 Level of Effort - *Maintenance of Effort* (SEAs)**

The combined fiscal effort per child or the aggregate expenditures within the State for free public education for the preceding fiscal year must be at least 90 percent of the combined fiscal effort per child or aggregate expenditures for the second preceding fiscal year, unless specifically waived by the Secretary of Education for one fiscal year only.

Expenditures to be considered are State and local expenditures for free public education. These expenditures include expenditures for administration, instruction, attendance, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures to cover deficits for food services and student activities. States may include in the maintenance of effort calculation expenditures of Federal funds for which no accountability to the Federal Government is required. Certain Impact Aid funds are an example of such funds. (However, Impact Aid funds for which there is a requirement of accountability to the Federal Government, such as those received for children with disabilities, can not be included in the calculation.) States must be consistent in the manner in which they calculate maintenance of effort from year-to-year in order to ensure that the annual comparisons are on the same basis (i.e., calculations must consistently, from year-to-year, either include or exclude expenditures of Federal funds for which accountability to the Federal Government is not required). Expenditures not to be considered are any expenditures for community services, capital outlay, or debt service, and any expenditures of Federal funds for which accountability to the Federal Government is required. (Title VI, Section 6401(a) of the ESEA (20 USC 7371(a)).

2.2 Level of Effort - *Supplement not Supplant* (SEAs/LEAs)

See ED Cross-Cutting Section.

3. Earmarking (SEAs)

Also, see ED Cross-Cutting Section.

a. *Minimum 85 Percent Distribution to LEAs*

An SEA shall distribute at least 85 percent of the funds to its LEAs (Title VI, Section 6102(a) of the ESEA (20 USC 7312(a))).

b. *Remaining Reserved for State Use (Maximum of 15 Percent)*

Of the amount reserved for State use, no more than 25 percent may be used for State administration of Title VI or transferred to a Consolidated Administration pool. See III.A.1, Activities Allowed or Unallowed - SEAs, for what is considered "administration." (Title VI, Section 6201(b) of the ESEA (20 USC 7331(b))).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Participation of Private School Children

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION**CFDA 84.318 TECHNOLOGY LITERACY CHALLENGE FUND GRANTS
(TLCF)****I. PROGRAM OBJECTIVES**

The purpose of Title III of the Elementary and Secondary Education Act is to support a comprehensive system for the acquisition and use of technology and technology-enhanced curricula, instruction, and administrative support services and resources for the nation's elementary and secondary schools. The TLCF program provides resources to speed the implementation of State-wide strategies designed to enable all schools to integrate technology fully into school curricula so that all students become technologically literate, with the academic skills essential for their success in the 21st Century. A key purpose of the program is to enable the State to assist school systems that have the highest numbers or percentages of children in poverty and demonstrate the greatest need for technology.

II. PROGRAM PROCEDURES

State educational agencies (SEAs) in the 50 States, the District of Columbia, Puerto Rico, and the Outlying Areas as well as the Bureau of Indian Affairs (BIA) are eligible and participate in the program. Funds are allocated to States on a formula basis proportionate to their share under Part A of Title I of the ESEA.

States may retain up to 5 percent of their allotment for technical assistance and administration. The remaining 95 percent is awarded competitively to local education agencies (LEAs) or to LEAs that are part of consortia, in such a manner that assistance is provided to LEAs with the greatest numbers or percentages of children in poverty and the greatest need for educational technology. (Multiple-year awards are permitted and continuation grants may be made in the second and subsequent years.) Awards must be of sufficient size, scope, quality and duration to carry out the purposes of the program effectively.

States have broad discretion in designing subgrant competitions. For example, they may: establish maximum and minimum award amounts; allocate funds to geographic regions within the State (with competitions within each region); establish priorities to target resources to LEAs with high percentages or numbers of children in poverty and the greatest need for technology; and limit the uses of funds to activities such as professional development or equipment purchases.

Source of Governing Requirements

This program is authorized by Title III, Part A, Subpart 2 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 USC 6841-6847). The Education Department General Administrative Regulations in 34 CFR parts 76, 77, 80, 82, 85, and 86 apply to this program. Other requirements in 34 CFR part 299 also apply.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. SEAs

An SEA must, in accordance with its approved State plan, make competitively awarded subgrants to LEAs, or to LEAs that are part of consortia with other LEAs, institutions of higher education, intermediate educational units, libraries, or other educational entities appropriate to provide local programs. Funds may be used for administration and technical assistance (Sections 3115 and 3132(a)(2) of ESEA (20 USC 6815 and 6842(a)(2))).

2. LEAs

Funds must be used for activities consistent with its SEA approved strategic, long-term technology plan. In general, funds may be used for the following (Sections 3134 and 3135 of ESEA (20 USC 6844 and 6845)):

- a. Developing, adapting, or expanding existing and new applications of technology to support the school reform effort;
- b. Funding projects of sufficient size and scope to improve student learning and, as appropriate, support professional development, and provide administrative support;
- c. Acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students and school library media personnel in the classroom or in school library media centers, in order to improve student learning by supporting the instructional program offered by such agency to ensure that students in schools will have meaningful access on a regular basis to such linkages, resources and services;
- d. Providing ongoing professional development in the integration of quality educational technologies into school curriculum and long-term planning for implementing educational technologies;

- e. Acquiring connectivity with wide area networks for purposes of accessing information and educational programming sources, particularly with institutions of higher education and public libraries; and
- f. Providing educational services for adults and families.

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort*

See ED Cross-Cutting Section.

2.2 Level of Effort - *Supplement Not Supplant* (LEA)

See ED Cross-Cutting Section.

3. Earmarking

Also, see ED Cross-Cutting Section.

No more than 5 percent of the annual allocation may be retained by the SEA for administration and technical assistance. The remaining 95 percent (or more) must be used for competitive sub-grants (Sections 3115 and 3132 of ESEA (20 USC 6815 and 6842)).

H. Period of Availability of Federal Funds

Funds are available for the Federal fiscal year for which they are appropriated and for an additional 12 months. For example, fiscal year 2000 funds are available from October 1, 1999 (the beginning of Federal fiscal year 2000) until September 30, 2001 (20 USC 1225(b); 34 CFR section 76.709).

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Participation of Private Schools

See ED Cross-Cutting Section.

2. Schoolwide Programs

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION

CFDA 84.338 READING EXCELLENCE

I. PROGRAM OBJECTIVES

The objective of the Reading Excellence program is to improve reading instruction and provide support for children with critical learning needs particularly in high poverty schools. Through this program grants are awarded to States to provide resources to implement improved practices in concert with the guidance prescribed from scientifically based reading research (20 USC 6661).

II. PROGRAM PROCEDURES

The Reading Excellence Act (REA) authorizes competitive three-year Reading and Literacy Grants to State education agencies (SEAs) (20 USC 6661b), which in turn distribute funding to eligible local education agencies (LEAs) through a competitive process. SEAs that receive funding are required to make subgrants to LEAs under two separate programs: Local Reading Improvement (LRI) (20 USC 6661d) and Tutorial Assistance (TA) (20 USC 6661e).

Source of Governing Requirements

This program is authorized by the Reading Excellence Act (REA), Part C, Title II of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. It is codified at 20 USC 6661 *et seq.* No regulations have been published on this program. However, this program is subject to the Department of Education's General Administrative Regulations at 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99.

Availability of Other Information

Other program information is available on the Internet at www.ed.gov/offices/OESE/REA/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeated in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. SEA

- a. Subgrants to LEAs awarded on a competitive basis (20 USC 6661d and 6661e).
- b. Administrative costs (20 USC 6661c).

2. LEA

- a. LRI - Carry out activities to advance reform of reading instruction in eligible schools (20 USC 6661d(d)(1)). Such activities shall include the following:
 - (1) Securing technical and other assistance (20 USC 6661d(d)(1)(A)).
 - (2) Providing professional development activities to teachers and other instructional staff (20 USC 6661d(d)(1)(B)).
 - (3) Providing on a voluntary basis, training to parents of children (20 USC 6661d(d)(1)(D) and (F)).
 - (4) Carrying out family literacy services (20 USC 6661d(d)(1)(E)).
 - (5) Programs to assist kindergarten students or program providing additional support for children preparing to enter kindergarten (20 USC 6661d(d)(1)(G) and (H)).
 - (6) Providing instruction in reading to children with reading difficulties (20 USC 6661d(d)(1)(H)).
- b. TA - Providing tutorial assistance in reading, before school, after school, on weekends, or during the summer, to children who have difficulty reading and related support services as defined in the statute (20 USC 6661e(b)).
 - (1) Creation and implementation of objective criteria to determine in a uniform manner the eligibility of tutorial assistance providers and tutorial assistance programs desiring to provide tutorial assistance under the subgrant. (20 USC 6661e(b)(2)(A)).
 - (2) Development of procedures for the provision of information to parents of an eligible child (20 USC 6661e(b)(2)(C)).

- (3) Development of a selection process for providing tutorial assistance (20 USC 6661e(b)(2)(D)).
- (4) Development of procedures for selecting children to receive tutorial assistance (20 USC 6661e(b)(2)(E)).
- (5) Development of a methodology by which payments are made directly to tutorial assistance providers (20 USC 6661e(b)(2)(F)).
- (6) Development of procedures under which the LEA agency will carry out the process for ensuring oversight of the quality and effectiveness of the tutorial assistance provider (20 USC 6661e(b)(2)(G)).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals - Not applicable

2. Eligibility for Groups of Individuals or Areas of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

- a. *LRI* - These subgrants are awarded on a competitive basis to: (1) local districts that have at least one school in Title I School Improvement status; (2) districts with the highest or second highest number of poor children in the State; or (3) districts with the highest or second highest percentages of poverty in the State (20 USC 6661d(a)(1)).
- b. *TA* - The same districts eligible for LRI are also eligible for TA with the addition of districts that are an ((20 USC 6661e(a)(1)):
 - (1) Empowerment Zone as designated under part I of sub-chapter U of chapter 1 of the Internal Revenue Code of 1986 (20 USC 6661e(a)(1)(A)(i)).
 - (2) Enterprise Community as designated under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986 (20 USC 6661e(a)(1)(A)(ii)).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**
 - a. SEAs shall allocate at least 80 percent of the funds to LEAs for LRI subgrants. Up to 15 percent of the funds may be subgrants to LEAs for Tutorial Assistance (TA) and costs of administering the TAs (20 USC 6661c).
 - b. SEAs shall not use more than 5 percent of the funds for State administration of which not more than 2 percent may be used for the State evaluation (20 USC 6661c).
 - c. LEAs shall not use more than 5 percent of its LRI subgrant for administrative costs (20 USC 6661d(2)).

H. Period of Availability of Funds

A SEA must expend the funds during the 3-year period beginning on the date on which the grant is made (20 USC 6661b(a)(2)(B)).

The State may award TA subgrants for up to a two-year period. The two-year period may be adjusted in a reasonable manner to avoid cessation of program benefits during the middle of a school year. For example, if a State issues two-year subgrants in January 2001, the subgrants may extend through school year 2002-03 and need not end in January 2003 (20 USC 6661d(a)(2)).

L. Reporting

1. **Financial Reporting**

See ED Cross-Cutting Section.
2. **Performance Reporting** - Not Applicable
3. **Special Reporting** - Not Applicable

N. Special Tests and Provisions

1. **Participation of Private School Children**

See ED Cross-Cutting Section.

2. School-wide Programs

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION**CFDA 84.340 CLASS SIZE REDUCTION****I. PROGRAM OBJECTIVES**

The objective of the Class Size Reduction (CSR) Program is to help schools improve student learning by hiring additional, highly qualified teachers so that children, especially those in the early elementary grades, can attend smaller classes. The addition of these new teachers should result in the reduction of class size in the early grades to an average of 18 children per class. The CSR Program also includes a strong emphasis on teacher quality and professional development, and local education agencies (LEAs) may use up to 25 percent of their grants on activities in this area.

II. PROGRAM PROCEDURES

All 50 States, the District of Columbia, Puerto Rico, the Bureau of Indian Affairs, and the Outlying Areas are eligible to apply for funds under this program. Fiscal year (FY)1999 grants were made to the States via a formula based on either the Title I allocation formula or the Eisenhower Professional Development State Grants (Title II) formula, whichever resulted in the larger amount for the State. FY 2000 and FY 2001 grants were made to States based on the proportion of available CSR funds they received in FY 1999.

LEAs apply to the State education agencies (SEAs) for CSR funds as part of their State Title VI application. States then disburse 100 percent of the CSR funds to eligible LEAs, based 80 percent on census poverty data and 20 percent on school enrollment data.

Source of Governing Requirements

This program is authorized by Section 306 of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41, December 21, 2000. Certain provisions of Title VI of the Elementary and Secondary Education Act (ESEA) 20 USC 7301 *et seq.* also apply. While there are no program regulations, this program is subject to the Department of Education's General Administrative Regulations (EDGAR) in 34 CFR parts 76, 77, 80, 81, 82, and 85.

Availability of Other Program Information

Other program information is available on the Internet at www.ed.gov/offices/OESE/ClassSize.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. *SEAs* - SEAs must distribute 100 percent of the CSR funds to all eligible LEAs. No funds may be retained by the SEA for administrative expenses (Section 306(b)(1) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).
2. *LEAs* - Funds must be used in accordance with the LEA's approved application, to recruit, hire (including payment of salaries and benefits), and train fully qualified classroom teachers, (who are certified within the State, have a baccalaureate degree, and demonstrate competency in the areas in which they teach) in order to reduce the class size in the targeted grades or subjects (generally grades kindergarten through three). Funds may also be used for teacher testing activities, professional development and for administrative costs (Section 306(c)(2)(A) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

After funding these efforts, or if class size in grades kindergarten through three (or in other grades or subjects for LEAs that do not serve grades kindergarten through three) is already reduced to 18 or fewer with fully qualified teachers, an LEA may use the funds to: (1) make further class size reductions in grades kindergarten through three (or in other grades or subjects for LEAs that do not serve grades kindergarten through three); (2) reduce class size in other grades; or (3) carry out activities to improve teacher quality, including professional development (Section 306(c)(2)(C) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

LEAs may use funds under the FY 2000 and FY 2001 CSR programs to continue paying the salaries of certified teachers who were hired under the FY1999 CSR program. However, LEAs may not use FY 2000 and FY 2001 funds to continue paying salaries of uncertified teachers hired under the FY 1999 CSR program unless those teachers are certified within the State by the start of the 2000-2001 school year (for FY 2000 funds) or 2001-2002 school year (for FY 2001 funds). (Sections 306(c)(4) and 306(h) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

LEAs may not use funds to increase the salaries or provide benefits (other than participation in professional development and enrichment) for teachers who are not hired under the CSR program. Funds also may not be used to recruit or hire

teachers to reduce class size in private schools (Sections 306(c)(4) and 306(e) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

3. *Rural Education Achievement Program (REAP) (LEAs)* - REAP provides authorization to spend all or part of funds under certain programs for activities authorized in other programs. After notification to the SEA, an LEA which meets both of the following requirements may spend all or part of this program's funds for activities authorized in Title I Grants to Local Educational Agencies (LEAs) (84.010); Safe and Drug-Free Schools and Communities--State Grants (84.186); Eisenhower Professional Development State Grants (84.281); and Technology Literacy Challenge Fund Grants (84.318) (See the program sections of "A. Activities Allowed or Unallowed" in this Supplement for the respective compliance requirements):
 - a. Have an Average Daily Attendance of less than 600 students; and
 - b. All of the schools in the LEA have been coded as rural schools by the National Center for Educational Statistics (NCES code 7 or 8) (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-89, December 21, 2000).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section

C. Cash Management

See ED Cross-Cutting Section

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - Maintenance of Effort (SEAs)

The combined fiscal effort per child or the aggregate expenditures within the State for free public education for the preceding fiscal year must be at least 90 percent of the combined fiscal effort per child or aggregate expenditures for the second preceding fiscal year, unless specifically waived by the Secretary of Education for one fiscal year only (20 USC 7371).

Expenditures to be considered are State and local expenditures for free public education. These expenditures include expenditures for administration, instruction, attendance, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures to cover deficits for food services and student activities. States may include in the maintenance of effort

calculation expenditures of Federal funds for which no accountability to the Federal Government is required. Certain Impact Aid funds are an example of such funds. (However, Impact Aid funds for which there is a requirement of accountability to the Federal Government, such as those received for children with disabilities, can not be included in the calculation.) States must be consistent in the manner in which they calculate maintenance of effort from year-to-year in order to ensure that the annual comparisons are on the same basis (i.e., calculations must consistently, from year-to-year, either include or exclude expenditures of Federal funds for which accountability to the Federal Government is not required). Expenditures not to be considered are any expenditures for community services, capital outlay, or debt service, and any expenditures of Federal funds for which accountability to the Federal Government is required (Title VI, Section 6401(a) of the ESEA (20 USC 7371(a))).

2.2 Level of Effort - *Supplement Not Supplant* (LEAs)

See ED Cross-Cutting Section

3. Earmarking

Also, see ED Cross-Cutting Section

- a. LEAs must use a minimum of 72 percent of their CSR allocation to recruit, hire (including payment of salaries and benefits), and train fully qualified, certified classroom teachers in order to reduce the class size in the targeted grades or subjects, generally grades kindergarten through three (Sections 306(c)(2)(B) and 306(f) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).
- b. An LEA may use a maximum of 25 percent of the CSR funds for professional development and teacher testing activities. In the following limited instances, an LEA may use more than 25 percent of the CSR funds for professional development:
 - (1) The LEA has obtained a waiver of the 25 percent maximum; or
 - (2) The LEA has demonstrated that 10 percent or more of its teachers in elementary schools are not certified in accordance with State and local requirements. An LEA that has demonstrated this condition may use more than 25 percent of its CSR allocation for professional development activities to help teachers become certified or to help teachers obtain sufficient content knowledge to teach effectively in their areas. Such an LEA must notify the SEA of the percentage of CSR funds to be used for these purposes (Section 306(c)(2)(B) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

- c. An LEA may reserve no more than 3 percent of the funds for administrative costs (Section 306(f) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not applicable

3. Special Reporting - Not applicable

N. Special Tests and Provisions

1. Participation of Private Schools (LEAs)

The ED Cross-Cutting Section applies to the equitable participation of teachers from private, nonprofit elementary and secondary schools in professional development if the LEA uses any of its CSR funds for such activities. The equitable participation requirement does not apply to any other activities paid for with CSR funds. (Section 306(e) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

2. Schoolwide Programs

See ED Cross-Cutting Section

DEPARTMENT OF HEALTH AND HUMAN SERVICES

- CFDA 93.044 SPECIAL PROGRAMS FOR THE AGING--TITLE III, PART B--
GRANTS FOR SUPPORTIVE SERVICES AND SENIOR CENTERS**
- CFDA 93.045 SPECIAL PROGRAMS FOR THE AGING--TITLE III, PART C--
NUTRITION SERVICES**

I. PROGRAM OBJECTIVES**Grants for Supportive Services and Senior Centers**

The objective of this grant program is to assist States in developing and implementing, through a network of public and private agencies and service providers, comprehensive and coordinated community-based service delivery systems for older Americans, which will assist them in leading independent, meaningful and dignified lives in their own homes and communities as long as possible. The target population for these supportive services, which include in-home services for frail elderly as well as those provided in multi-purpose senior centers, is individuals aged 60 and older with emphasis on those with the greatest social and economic need, particularly low-income minorities; however, proof of age is not required as a condition of receiving services. As the program itself matures, program funding is increasingly being targeted to serve those elderly who, because of their income or age, may not be eligible for Medicaid or Medicare, and recipients are coordinating with other Federal and State programs in ensuring the availability of the broadest range of services for the elderly. As a result, many of the organizations funded under this program and the nutrition program (see below) also receive funds from other Federal sources as well as from non-Federal sources.

Supportive services may include a full range of economic and social services, including access services (transportation, outreach, information and referral, and language translation services), legal assistance and other counseling services, case management services, health screening services, services designed to ensure safe and appropriate housing, pre-retirement planning and assessment of post-retirement needs, ombudsman services, and services to families of elderly victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction. Nutrition services are provided under a separate authorization as described below.

Grants for Nutrition Services

The objective of this grant program is to provide individuals aged 60 or older with nutrition services, including meals and nutrition education, either in the home or in a congregate setting. This program is clustered with the grants for supportive services and senior centers for purposes of this Supplement since these services, although separately earmarked, fall under the overall State planning process and process for allocation of funds.

II. PROGRAM PROCEDURES

Source of Governing Requirements

These programs are authorized under Parts B and C, respectively, of Title III of the Older Americans Act, as amended, which is codified at 42 USC 3021-3030. These programs may also be referred to as Part B (supportive services and senior centers) and Part C1 (congregate nutrition services) and C2 (home-delivered nutrition services). Grants to Indian tribes for similar purposes are authorized under another title of the Older Americans Act and are not included in this Supplement. Implementing regulations are published at 45 CFR part 1321.

Administration and Services

The Administration on Aging (AoA), a component of the Department of Health and Human Services, administers the supportive services and senior centers program and the nutrition program in cooperation with States, sub-State agencies, and other service providers. The States receive a formula grant from AoA, which is used by the State Unit on Aging (State Agency) both for its planning, administration, and evaluation of these programs as well as to pass through to other entities.

Planning and Service Areas (PSAs) are designated by the State Agency in accordance with AoA guidelines after considering the geographical distribution of the service populations, location of available services, available resources, other service area boundaries, location of units of general purpose local government, and other factors. An Area Agency on Aging (Area Agency) is then designated by the State for each PSA after considering the views of affected local governments (States that had a single Statewide planning and service area in place prior to FY 1981 had the option to continue that method of operation; there are currently eight States in this category). A single Area Agency may serve more than one PSA. The Area Agencies, which may be public or private non-profit agencies or organizations, develop and administer counterpart area aging plans, as approved by the State Agency, and, in turn, provide subgrants to or contract with public or private service providers for the provision of services.

In general, the State Agency and the Area Agencies are precluded from the direct provision of services, other than ombudsman services, unless providing the services is necessary to ensure an adequate supply of services, the services are related to the agency's administrative functions, or where services of comparable quality can be provided more economically by the agency. Federal funds may pay for only a portion of the costs of administration and services with the State and subrecipients required to provide a matching share from other sources.

Service providers may include profit-making organizations (42 USC 3020(c)).

State Plan and Area Plans

A State plan, approved by AoA, is a prerequisite to funding of the supportive services and nutrition programs; however, the State Plan covers the totality of AoA programs for which the State is the recipient under the Older Americans Act. The State Plan is developed on the basis of input from the Area Agencies as well as input from the affected populations as a result of public

hearings. The State Plan addresses how the State intends to comply with the various requirements of the Older Americans Act and, specifically for Title III, its program objectives, designation of Planning and Service Areas (PSAs), and specification of the intrastate allocation formula for distribution of funds to each PSA. The State Plan also contains assurances required by the Act and implementing regulations.

Unless a State is not in compliance with Title III requirements, the State Plan may be submitted on a two-, three-, or four-year cycle, at the option of the State, with annual amendments, as appropriate; however, AoA funding is provided annually. States found to be in noncompliance may be required to submit their State Plans annually until they are determined to be in compliance. Area plans are prepared and submitted to the State for approval for either two, three, or four years, with annual adjustments, as necessary.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. State Agency

- a. State Agencies may use any amount of Title III-B (supportive services) funding necessary to conduct an effective ombudsman program (42 USC 3024 (d)(1)(B)).
- b. Grant funds may be used for paying the costs of providing for a State volunteer services coordinator (42 USC 3024 (e)).
- c. Grant funds may be used for State plan administration, including State Plan preparation, evaluation of activities carried out under the Plan, the collection of data and the conduct of analyses related to the need for services, dissemination of information, short-term training, and demonstration projects (42 USC 3028 (a)).
- d. No supportive services, nutrition services, or in-home services may be provided directly by the State Agency unless the State Agency determines that direct provision of services is necessary to ensure an adequate supply of services, where such services are related to the agency's administrative functions, or where such services of comparable quality can be provided more economically by the State Agency (42 USC 3027 (a)(10)).

2. Area Agency

- a. Funds may be used for plan administration, operation of an advisory council, activities related to advocacy, planning, information sharing, and other activities leading to development or enhancement within the designated service area(s) of comprehensive and coordinated community-based systems of service delivery to older persons (45 CFR section 1321.53).
- b. Funds may be used for paying the costs of providing for an area volunteer services coordinator (42 USC 3024(e) and 3026(a)(12)).
- c. If approved by the State Agency, an Area Agency may use service funds for program development and coordination activities (42 USC 3024 (d)(1)(D); 45 CFR section 1321.17(f)(14)(i)).
- d. No supportive services, nutrition services, or in-home services may be provided directly by an Area Agency except if, in the judgment of the State Agency, direct provision of services is necessary to ensure an adequate supply of services, where such services are related to the agency's administrative functions, or where such services of comparable quality can be provided more economically by the agency (42 USC 3027 (a)(10)).

3. Service Providers

- a. Funds may be used to assist in the operation of multi-purpose senior centers and to meet all or part of the costs of compensating professional and technical personnel required for center operation (42 USC 3030d (b)(2)).
- b. Funds may be used for nutrition services and supportive services consistent with the terms of the agreement between the Area Agency and the service provider (42 USC 3026 (a)(1), 3030d(a), and 3030e).
- c. Funds may be used for services associated with access to supportive services for in-home services, and for legal assistance (42 USC 3026 (a)(2)).
- d. Nutrition services may be provided to older individuals' spouses, who may not be eligible for these services in their own right, on the same basis as they are provided to older individuals, and may be made available to handicapped or disabled individuals who are less than 60 years old but who reside in housing facilities occupied primarily by older individuals at which congregate nutrition services are provided (42 USC 3027 (a)(13)(A)).

- e. In accordance with procedures established by the Area Agencies, nutrition project administrators may offer meals to individuals providing volunteer services during the meal hours and to individuals with disabilities who reside at home with and accompany eligible individuals (42 USC 3027 (a)(13)(I)).
- f. Funds may be used for provision of home-delivered meals to older individuals (42 USC 3027 (a)(13)(B)).
- g. Funds may be used to acquire (in fee simple or by lease for 10 years or more), alter, or renovate existing facilities or to construct new facilities to serve as multi-purpose senior centers for not less than 10 years after acquisition, or 20 years after completion of construction, unless waived by the Assistant Secretary for Aging (42 USC 3027 (a)(15)).

G. Matching, Level of Effort, Earmarking

1. Matching

a. State

- (1) States must contribute from State or local sources at least 25 percent of the cost of State Plan administration as their matching share. This may include cash or in-kind contributions by the State or third parties (42 USC 3028 (a)(1), 42 USC 3029 (b), and 45 CFR section 1321.47).
- (2) Using fiscal year (FY) 1980 as the baseline, the difference, if any, between the amount representing the match for services (of at least 15 percent Statewide) in FY 1980 and the amount required in any subsequent FY shall be met from State sources only (42 USC 3029 (b)).
- (3) All services, whether provided by the State Agency, an Area Agency or other service provider (including any ombudsman services provided under the authority of 42 USC 3024 (d)(1)(D)) must be funded with a non-Federal match of at least 15 percent. Funds for ombudsman services provided under the authority of 42 USC 3024 (d)(1)(B) are not required to be matched. This percentage must be met on a Statewide basis (42 USC 3042 (d)(1)(D); 45 CFR section 1321.47).

b. State and Area Agencies

Area Agencies, in the aggregate, must contribute at least 25 percent of the costs of administration of area plans (42 USC 3024 (d)(1)(A); 45 CFR section 1321.47).

- (1) State - Since this match is computed based on the aggregate of all Area Agencies in the State, the auditor's testing of the amount of this match is performed at the State Agency.
- (2) Area Agencies - The auditor's testing of the allowability of the matching (e.g., from an allowable source and in compliance with the administrative requirements and allowable costs/cost principles requirements) should be performed at the Area Agencies.

2.1 Level of Effort - *Maintenance of Effort* - State

The State Agency must spend for both services and administration at least the average amount of State funds it spent under the State plan for these activities for the three previous fiscal years. If the State Agency spends less than this amount, the Assistant Secretary for Aging reduces the State's allotments for supportive and nutrition services under this part by a percentage equal to the percentage by which the State reduced its expenditures (42 USC 3029 (c); 45 CFR section 1321.49). See L.1. for reporting requirement regarding maintenance of effort.

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

a. State

- (1) Expenditures for administration of the State plan are limited to the greater of five percent (or \$300,000 or \$500,000 depending on the aggregate amount appropriated or a lesser amount for the U.S. territories) of the overall allotment to a State under Title III unless a waiver is granted by the Assistant Secretary on Aging (42 USC 3028 (a)(1), and (b)(1), (2) and (3)).
- (2) After determination of the amount to be applied to State plan administration under 42 USC 3028 (b), the State may make up to (and including) 10 percent of that amount available for the cost of administration of Area Plans. The State may either calculate the 10 percent based on the total allotment from AoA or on the amount remaining after deducting the amount to be applied to State Plan administration. This is an aggregate amount and need not be applied on an Area Agency-by-Area Agency basis (42 USC 3024 (d)(1)(A)).
- (3) Any amounts available to the State for State plan administration which the State determines are not needed for that purpose may be used by the State to supplement the amount available for administration of Area Plans (42 USC 3028 (a)(2)).

- (4) Any State which has been designated as a single planning and service area may elect to be subject to the State Plan administration limit (five percent) or the Area Plan administration (10 percent) limit (42 USC 3028 (a)(3)).
- (5) A State may transfer:
 - (a) Up to 30 percent of a State's separate allotments for congregate and home-delivered nutrition services between those two allotments without AoA approval (42 USC 3028 (b)(4)(a); 45 CFR section 1321.45(a)).
 - (b) Not more than 20 percent between programs under Part B and Part C (Parts C1 and/or C2) for use as the State considers appropriate (42 USC 3028(b)(5)(A)).

A State Agency may not delegate to an Area Agency or any other entity the authority to make such transfers (42 USC 3028(b)(6)).

Additional amounts may be transferred with AoA approval (42 USC 3028 (b)(4)(B) and (b)(5)(B)).

- (6) If a State allotted 10 percent of its allotment for administration of area plans, the State may allow any Area Agency, upon request and with justification, to use an amount (that an Area Agency would otherwise make available for direct services) for program development and coordination activities by that Area Agency (42 USC 3024 (d)(1)(D); 45 CFR section 1321.17(f)(14)(i)).

b. *Area Agency*

As provided in agreements with the State Agency, Area Agencies earmark portions of their allotment. The typical earmarks are:

- (1) A maximum amount or percentage for program development and coordination activities by that agency (42 USC 3024 (d)(1)(D); 45 CFR section 1321.17(f)(14)(i)).
- (2) A minimum amount or percentage for Services related to access, in-home services, and legal assistance (42 USC 3026 (a)(2) and (b)).

H. Period of Availability of Federal Funds

Funds are made available to the State annually and must be obligated by the State by the end of the Federal fiscal year in which they were awarded. The State has two years to liquidate all obligations for its administration of the State Plan and for awards to the Area

Agencies consistent with its intrastate allocation formula. Therefore, in any given year, multiple years of funding are being used to provide services Statewide.

Whenever the Assistant Secretary on Aging determines that any amount allotted to a State under Parts B or C for a fiscal year will not be used to carry out the purpose for which the allotment was made, the funds may be reallocated to one or more other States. Any amount made available to a State as the result of a reallocation shall be regarded as part of the State's allotment for the same fiscal year in which the funds were appropriated, but shall remain available for obligation by the State until the end of the succeeding fiscal year (42 USC 3024 (b)).

J. Program Income

Service providers are required to provide an opportunity to individuals being served under the nutrition services program to make voluntary contributions for meals. These voluntary contributions are to be added to the amounts made available by the State or Area Agency and must be used to increase the number of meals served, facilitate access to meals, and provide other supportive services directly related to nutrition services (42 USC 3027(a)(13)(C)(i) and (ii)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report*, and AoA Supplemental Form (OMB No. 0985-0004) - Applicable (Required semi-annually)
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS 272 series of reports.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

M. Subrecipient Monitoring**1. State Agency**

The State Agency is required to develop policies governing all aspects of programs operated under the State Plan and to monitor their implementation, including assessing performance for quality and effectiveness and specifying data system requirements to collect necessary and appropriate data (45 CFR sections 1321.11 and 1321.17 (f)(9)).

2. Area Agencies

Area Agencies are required to oversee the activities of service providers with respect to provision of services, reporting, voluntary contributions, and coordination of services (45 CFR section 1321.65).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.210 TRIBAL SELF-GOVERNANCE DEMONSTRATION PROGRAM: PLANNING AND NEGOTIATION COOPERATIVE AGREEMENTS AND IHS COMPACTS

I. PROGRAM OBJECTIVES

The objective of this program is to make financial assistance awards to Indian Tribes to enable them to assume programs, services, and functions of the Indian Health Service (IHS), Department of Health and Human Services (HHS) that are otherwise available to Indian Tribes or Indians.

II. PROGRAM PROCEDURES

Title III of the Indian Self-Determination and Education Assistance Act as amended (25 USC 450 *et seq.*), authorized a demonstration program for self-governance compacts with Tribes. Title V of the Indian Self-Determination and Education Act was signed into law August 18, 2000 (Pub. L. 106-260), closing the demonstration project and providing permanent status for this program. Title V allows tribes to retain their Title III Compacts and Annual Funding Agreements (AFA) to the extent that their provisions are not directly contrary to any express provision in Title V or tribes may negotiate new Compacts and Funding Agreements (FA) under Title V (25 U.S.C. 458aaa-3(c) and 458aaa-4(f)).

Planning cooperative grants are made by the IHS to any Federally recognized Tribe or their designates that meets specific requirements, and are awarded on a one-time basis to allow Tribes to prepare for compact awards. This grant allows a Tribe to gather information to determine the current types and extent of programs, services, and funding available within its service area and to plan for the types and extent of programs, services and funding to be made available to the Tribe under a Compact and AFA (Title III) or FA (Title V), which identifies the health programs assumed and monies available to the Tribe for these programs. The IHS may also award funding for negotiating the Compacts and AFAs or FAs. Upon completion of the planning and negotiation phase, funding awarded under AFAs or FAs may be multi-year agreements. A Tribe may compact with the IHS to be responsible for the provision of certain health services, enter into a contract with the IHS to provide other health services, and have other services be directly provided by the IHS. In addition, a Tribe may use funds received from IHS to contract with other entities in order to provide specified health services.

Tribal compactors may provide health care services directly at facilities operated by the compactor or by operating a contract health services program as part of the AFA or FA. Contract health services are services provided to IHS eligible beneficiaries by private sector health care providers, such as hospitals and physicians, under contract with the Tribal compactor.

Source of Governing Requirements

The Demonstration Program was authorized by Title III of the Indian Self-Determination and Education Assistance Act, as amended, and is codified at 25 USC 450f note. Title V of the

Indian Self-Determination and Education Assistance Act (ISDA), as amended, (Pub. L. 106-260) which was signed into law on August 18, 2000, and is codified at 25 USC 458aaa.

Regulations concerning the general administration of Indian health programs may be found at 42 CFR part 36. These regulations are not codified in the Code of Federal Regulations, but may be found in the October 28, 1999, *Federal Register* (64 FR 58318-58322). The regulations currently codified at 42 CFR part 36 have been under a congressional moratorium since 1988 and have not been implemented, and pursuant to 64 FR 58318 have been designated 42 CFR part 36a. Accordingly, all references referring to regulatory requirements in this supplement cite those requirements found at 42 CFR part 36 as published on October 28, 1999 in the *Federal Register*, and not those codified in Code of Federal Regulations.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Planning Cooperative Grants* - These one-time funds may be used for determination and planning for the assumption of health services (25 USC 450f note for Title III and 25 USC 458aaa-2 for Title V).
2. *Negotiation Grants* - Funds may be used for the negotiation of the health services program (25 USC 450f note for Title III and 25 USC 458aaa-2 for Title V).
3. *Compacts* - Funds may be used to carry out and deliver the health services program. The specific services allowed will be indicated in the AFA or FA between the tribal organization and the Secretary of Health and Human Services. While latitude in redesigning programs and activities is provided, such redesign is limited to programs covered by the AFA or FA (25 USC 450f note for Title III and 25 USC 458aaa-2 for Title V).

B. Allowable Costs/Cost Principles

For contract health services, the Tribal compactor is the payor of last resort. The contract provider must first seek payment from all alternate resources, such as health care providers and institutions, health care programs including but not limited to programs under Social Security Act (i.e., Medicare, Medicaid), State or local health care programs or local health care programs and private insurance before seeking payment from the Tribal compactor. Where a third party liability is established after the claim is paid, reimbursement from the third party should be sought (42 CFR section 36.61).

E. Eligibility

1. Eligibility for Individuals

- a. Eligibility for services within facilities operated by the IHS (which are billed by IHS to the Tribe) or run by a tribal organization for the Federal Government:
 - (1) Individuals of Indian descent belonging to the Indian community served by the local facilities and program are eligible to receive services. An individual may be regarded as within the scope of the Indian health and medical service if he/she is regarded as an Indian by the community in which he/she lives as evidenced by such factors as tribal membership, enrollment, residence on tax-exempt land, ownership of restricted property, active participation in Indian affairs, or other relevant factors in keeping with the general Bureau of Indian Affairs practices in the jurisdiction (42 CFR section 36.12).
 - (2) Non-Indian women pregnant with an eligible Indian's child are eligible for services. In cases where the woman is not married to the eligible Indian under applicable state or tribal law, paternity must be acknowledged in writing by the Indian or determined by order of a court of competent jurisdiction. Services may be provided only during the period of her pregnancy through postpartum (generally six weeks after delivery) (42 CFR section 36.12).
 - (3) Services may be provided to non-Indian members of an eligible Indian's household if a medical officer in charge determines that such services are needed to control an acute infectious disease or a public health hazard (42 CFR section 36.12).
 - (4) Otherwise ineligible individuals may receive temporary care and treatment in case of an emergency, as an act of humanity (42 CFR section 36.14).
 - (5) Services may be provided on a cost basis to otherwise ineligible persons in accordance with the criteria in Section 813 of the Indian Health Care Improvement Act (25 USC 1680c(b)(1)(B)).
- b. Eligibility for services in the Contract Health Services component of the IHS:
 - (1) In order to qualify for the Contract Health Services component of IHS:

- (a) An individual must meet the requirements outlined above (42 CFR section 36.23); and
 - (b) Must either reside in the United States and on a reservation located within a Contract Health Service Delivery Area (CHSDA) as defined under 42 CFR section 36.22; or, if he/she does not reside on a reservation, reside within a CHSDA; and
 - (c) Be a member of the Tribe or Tribes located on that reservation or of the Tribes or Tribes for which the reservation was established; or maintain close economic and social ties with said Tribe or Tribes (42 CFR section 36.23).
- (2) *Students* - Students continue to be eligible for contract health service during their full-time attendance at programs of vocational, technical, or academic education, including normal school breaks and for a period not to exceed 180 days after the completion of their studies (42 CFR section 36.23).
 - (3) *Transients* - Transient persons, such as those who are in travel or are temporarily employed, remain eligible for contract services during their absence (42 CFR section 36.23).
 - (4) *Other Persons* - Other persons who leave the CHSDA in which they are eligible and are neither transients or students remain eligible for contract health services for a period not to exceed 180 days from such departure (42 CFR section 36.23).
 - (5) *Foster Children* - Indian children who are placed in foster care outside a CHSDA by order of a court of competent jurisdiction and who were eligible for contract health services at the time of the court order shall continue to be eligible for contract health services while in foster care (42 CFR section 36.23).
2. **Eligibility for Group of Individuals or Area of Service Delivery** - Not Applicable
 3. **Eligibility for Subrecipients** - Not Applicable

H. **Period of Availability of Federal Funds**

For each fiscal year during which a Self-Determination FA or AFA is in effect, the carryover of funds is permitted without a fiscal year limitation. The annual funding continues under the same contract number for the length of the program (Pub. L. No. 106-113, Division B, section 1000(a)(3) (Department of Interior and Related Agencies Appropriations Act, Title II, Administrative Provisions, Indian Health Service)).

All funds paid to an Tribe in accordance with a compact or funding agreement shall remain available until expended. In the event that a Tribe elects to carryover funding from one year to the next, such carryover shall not diminish the amount of funds the Tribe is authorized to receive under its funding agreement in that or any subsequent fiscal year (25 USC 458 aaa-7(i)).

J. Program Income

1. For direct care services the Tribal compactor pursues cost reimbursement from all applicable sources (25 USC 1621e, 42 USC 1395qq, and 42 USC 1396j).
2. All Medicare, Medicaid, or other program income earned by an Tribe shall be treated as supplemental funding to that negotiated in the funding agreement. The Tribe may retain all such income and expend such funds in the current year or in future years except to the extent that Indian Health Care Improvement Act (25 USC 1601 *et seq.*) provides otherwise for Medicare and Medicaid receipts (25 USC 450j-1 and 25 USC 458 aaa-7(j)).
3. *Use of Funds - Direct Billing Medicare and Medicaid* - Tribes electing to directly bill for Medicare and Medicaid shall first use such income for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under Medicare or Medicaid programs. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions shall be used solely for improving health resources deficiency level of the Tribe (Pub. L. 106-417; 25 USC 1645).
4. *Use of Funds Collected through HHS* - Tribes electing to receive Medicare and Medicaid reimbursement through HHS shall use such income for achieving compliance with the applicable conditions and requirements of Medicare and Medicaid (exclusive of planning, design, and construction of new facilities) (Pub. L. 106-291 114 Stat. 978, 42 USC 1395qq, and 25 USC 1642).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.217 FAMILY PLANNING - SERVICES

I. PROGRAM OBJECTIVES

The purpose of the Family Planning - Services Project Grant (FPSPG) program is to provide funds for education, counseling, and comprehensive medical and social services necessary to enable individuals to freely determine the number and spacing of their children; and by doing so, to help reduce maternal and infant mortality and promote the health of mothers and children.

II. PROGRAM PROCEDURES

The FPSPG program is administered by the Office of the Secretary (OS), a component of the Department of Health and Human Services (HHS). Within the OS, the Office of Family Planning is responsible for the program. The program has no statutory funds allocation formula; HHS makes discretionary grant awards whose amounts are based on estimates of the amounts necessary for successful project performance.

Any public or non-profit private entity in a State currently providing family planning services with priority given to low income families may apply for a project grant under the program. The entity applying for the grant must follow Public Health Systems Reporting Requirements and submit to the State a plan for a coordinated and comprehensive program of family planning services.

Family planning services under the FPSPG program must be made available without coercion and with respect for the privacy, dignity, and social and religious beliefs of the individuals being served. To the extent possible, entities which receive grants shall encourage family participation in projects assisted under this program.

Source of Governing Requirements

The FPSPG is authorized under Title X of the Public Health Service Act, as amended (42 USC 300 *et seq.*). The implementing regulations are 42 CFR part 59.

Availability of Program Information

Additional information is available on the HHS Office of Population Affairs web site at <http://opa.osophs.dhhs.gov>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed and Unallowed**1. Activities Allowed**

- a. *Provision of services* - A project supported by the FPSPG must provide a broad range of family planning methods and services, including infertility services and services to adolescents. Services that may be funded for a particular project are identified in the grant agreement. They may include:
- (1) *Medical services* - These include providing information on all medically approved methods of contraception (including natural family planning methods); counseling services; physical examinations, including cancer detection and laboratory tests; issuance of contraceptive supplies; periodic follow-up examinations; and referral to other medical facilities when medically indicated.
 - (2) *Social services* - These include counseling, referral to and from other social and medical service agencies, and such ancillary services as are necessary to facilitate clinic attendance.
 - (3) *Information and education* - These activities are designed to achieve community understanding of the program's objectives, inform the community of the availability of program services, and promote continued participation in the project by persons likely to benefit from its services (42 CFR section 59.5(a)(1) and (b)).
- b. *Purchase of services* - If the grantee obtains services for its clients by contract or other arrangements with service providers, it must do so according to agreements with the providers that specify payment rates and procedures (42 CFR section 59.5(b)(9)).

2. Activities Unallowed

No FPSPG funds shall be used in programs where abortion is a method of family planning (42 CFR section 59.5(a)(5)).

G. Matching, Level of Effort, Earmarking**1. Matching**

The Federal share of a FPSPG project's cost may never equal 100 percent nor be less than 90 percent (with certain exceptions). The Federal and non-Federal shares are stated in the Notice of Grant Award issued to the grantee (42 CFR sections 59.7(b) and (c)).

2. Level of Effort - Not Applicable

3. Earmarking - Not Applicable

J. Program Income

A grantee must charge for family planning services according to the client's ability to pay. A person's inability to pay according to the prescribed fee schedule must not be a deterrent to receiving services. A person from a low income family may not be charged, except to the extent that payment will be made by a third party (such as an insurer or a government agency) which is authorized or is under legal obligation to pay such charge. Individuals from other than low income families are charged according to an established fee schedule. For individuals from families with incomes between 101 and 250 percent of the published Income Poverty Guidelines, such a schedule must provide discounts based on ability to pay. Fees for individuals from families with higher incomes are set to recover the reasonable cost of providing the services (42 CFR sections 59.5(a)(7) and (8)).

A "low income family" is one whose total annual income does not exceed 100 percent of the most recent Income Poverty Guidelines published by HHS in the *Federal Register*. These guidelines may be found on the HHS web site at <http://aspe.os.dhhs.gov/poverty/poverty.htm>. "Low income family" also includes members of families whose annual family income exceeds the poverty level, but who the project director has determined are unable, for good reasons, to pay for family planning services. For example, unemancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own resources (42 CFR section 59.2 and 59.5(a)(6)).

The Notice of Grant Award provides guidance on the use of program income. Generally the addition method is used for this program.

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS-272 series of reports.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.151 HEALTH CENTERS GRANTS FOR HOMELESS POPULATIONS (HCH)
CFDA 93.224 COMMUNITY HEALTH CENTERS (CHC)
CFDA 93.246 HEALTH CENTERS GRANTS FOR MIGRATORY AND SEASONAL
FARM WORKERS (MHC)****I. PROGRAM OBJECTIVES**

In general, the objectives of the consolidated health centers programs are to provide to populations that would ordinarily not have access to health care (1) primary and preventive health services and (2) referrals to other services, such as hospital and substance abuse services, and to assist these underserved populations to establish eligibility under entitlement programs.

Consolidated health centers programs typically provide family-oriented primary and preventive health care services for people living in rural and urban medically underserved communities, e.g., those where economic, geographic or cultural barriers limit access to such services for a substantial portion of the population. Some of the consolidated health centers programs have a special focus on particularly vulnerable populations like the homeless, migrant farm workers, residents of public housing, and school children at risk from poor health outcomes.

Required health services for health centers include services related to family medicine, internal medicine, pediatrics, ob/gyn, lab and radiology services, and prenatal and perinatal services; breast and cervical cancer screening; well-child services; immunizations; screenings for elevated blood lead, communicable diseases, and cholesterol; pediatric eye, ear, and dental screenings; voluntary family planning services; preventive dental services; emergency medical services; referrals to providers of medical services; and, as appropriate, pharmaceutical services. Other services include patient case management services and other services designed to assist patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide additional medical, social, or educational support or enabling services, such as transportation, translation and outreach services, and patient education services.

Some exceptions and special provisions for certain consolidated health center programs are:

Health Care for the Homeless Program (CFDA 93.151) - In addition to services required of all consolidated health centers, HCH programs must provide substance abuse services, including detoxification, counseling, and treatment in residential settings other than hospitals.

Migrant Health Center (CFDA 93.246) - The requirement that the MHC provide all the primary care services can be waived, and an MHC also may receive approval to provide certain required primary health care services during certain periods of the year only. An MHC may provide health services other than primary care services due to the health needs of the population it serves. These services may include environmental health services, screening for and control of infectious diseases, and injury prevention programs.

II. PROGRAM PROCEDURES

Planning Grants

These grants may be awarded under any of the consolidated health centers programs. The purpose of these grants is to assess the health care needs of the population to be served and to plan and develop a health center program that will serve medically underserved populations. This includes efforts to obtain financial and professional support, develop linkages with other health-care providers, and involve the community. Planning grants also may be awarded to health centers to plan or develop a network or plan for providing health services on a prepaid or other managed care basis.

Operational Grants

These grants are intended to provide primary health services and referrals to other services for medically underserved populations, including special vulnerable populations.

Administration and Services

The consolidated health centers programs are awarded and administered at the Federal level by Bureau of Primary Health Care (BPHC), Health Resources and Services Administration (HRSA), Department of Health and Human Services. Based on applications submitted to and approved by HRSA, grants are provided to public and private nonprofit organizations under one or more of the programs described above, depending on the constituency and the current availability of services in the geographical area to be served.

Grantees are generally required to have a governing board and, if so, one that is composed of individuals, a majority of whom are being served by the center and, who, as a group represent the individuals being served by the center. The responsibilities of the governing board include, among other things, selecting the services to be provided, determining the center's hours of operation, and approving the selection of the center director. Grantees may enter into service and care arrangements with vendors to expand their service networks.

The annual level of BPHC funding for the operation of a health center is determined on the basis of the center's projected total costs of operation and expected revenues from program income and funding from non-Federal sources. This includes all State, local and other operational funding received by or allocated to the approved project, and all premiums, fees, and third-party reimbursements received (adjusted for uncollectible amounts). The Federal dollars awarded are intended to make up the expected difference between the projected costs and revenues.

Source of Governing Requirements

The consolidated health centers programs are authorized under the Health Centers Consolidation Act of 1996 (Public Law 104-299), which amended Section 330 of the Public Health Service Act. The statutory provisions are codified at 42 USC 254b. The implementing program regulations for the CHC and MHC programs are 42 CFR parts 51c and 56, respectively. HCH does not have program-specific regulations.

Availability of Other Program Information

Additional program information is available from the BPHC site on the Internet (www.bphc.hrsa.gov).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed Or Unallowed

1. *Operational Grants*

- a. Funds may be used for health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and, where appropriate, by physician assistants, nurse practitioners, and nurse midwives (42 USC 254b(b)(1)(A)(i)(I)).
- b. Funds may be used for diagnostic laboratory and radiologic services (42 USC 254b(b)(1)(A)(i)(II)).
- c. Funds may be used for preventive health services, including prenatal and perinatal services; screening for breast and cervical cancer, well-child services; immunizations against vaccine-preventable diseases; screenings for elevated blood lead levels, communicable diseases and cholesterol; pediatric eye, ear, and dental screenings; voluntary family planning services; and preventive dental services (42 USC 254b(b)(1)(A)(i)(III)).
- d. Funds may be used for emergency medical services (42 USC 254b(b)(1)(A)(i)(IV)).
- e. Funds may be used for pharmaceutical services (42 USC 254b(b)(1)(A)(i)(V)).
- f. Funds may be used to provide referrals to providers of medical services and other health-related services (including substance abuse and mental health services) (42 USC 254b(b)(1)(A)(ii)).
- g. Funds may be used for patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, educational, or other related services (42 USC 254b(b)(1)(A)(iii)).

- h. Funds may be used for services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population served by the center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals) (42 USC 254b(b)(1)(A)(iv)).
- i. Funds may be used for education of patients and the general population served by the health center regarding the availability and proper use of health services (42 USC 254b(b)(1)(A)(v)).
- j. Funds may be used for the acquisition and lease of buildings and equipment (including the costs of amortizing the principal of, and paying the interest on, loans) (42 USC 254b(e)(2)).
- k. Funds may be used for environmental health services, including the detection and alleviation of unhealthful conditions associated with water supply; sewage treatment; solid waste disposal; rodent and parasitic infestation; field sanitation; housing; and other environmental factors related to health (42 USC 254b(b)(2)(A)).
- l. Funds may be used by Migrant Health Centers for special occupation-related health services for migratory and seasonal agricultural workers (42 USC 254b(b)(2)(B)).
- m. Funds may be used for the reimbursement of members of the grantee's governing board, if any, for reasonable expenses incurred by reason of their participation in board activities (42 CFR sections 51c.107(b)(3) and 56.108(b)(3)).
- n. Funds may be used for the cost of insurance for medical emergency and out-of-area coverage (42 CFR section 51c.107(b)(6)).
- o. Funds may be used for the costs of providing training related to the provision of required primary health care services and additional health services and to the management of health center programs (42 USC 254b(e)(2)).

2. *Planning Grants*

- a. Funds may be used for the acquisition and lease of buildings and equipment, which may include data and information systems (including the costs of amortizing the principal of, and paying the interest on, loans) (42 USC 254b(c)(1)).
- b. Funds may be used to provide training and technical assistance related to the provision of health services on a prepaid basis or other managed care

arrangement, and for other purposes that promote the development of managed care networks and plans (42 USC 254b(c)(1)).

B. Allowable Costs/Cost Principles

Program income, including, but not limited to, fees, premiums and third-party reimbursements may be used for allowable activities (see III.A.1 above) and for such other purposes as are not specifically prohibited if such use furthers the objectives of the project. As such, program income is subject to the unallowable cost provisions of the program rather than the OMB cost principles circulars (42 USC 254b(e)(5)(C)).

J. Program Income

1. Health centers must have a schedule of fees or payments for the provision of their health services consistent with locally prevailing rates or charges and designed to cover their reasonable costs of operation. They are also required to have a corresponding schedule of discounts applied and adjusted on the basis of the patient's ability to pay (42 USC 254b(j)(3)(G)(i)). The patient's ability to pay is determined on the basis of the official poverty guideline, as revised annually by HHS (42 CFR sections 51c.107(b)(5), 56.108(b)(5), and 56.303(f)). The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a page on the Internet that provides the poverty guidelines (<http://aspe.os.dhhs.gov/poverty/poverty.htm>).
2. Health centers are required to collect (or make every reasonable effort to collect) appropriate reimbursement for their costs in providing health services to persons eligible for medical assistance under Title XIX of the Social Security Act (Medicaid), entitled to insurance benefits under Title XVIII of the Social Security Act (Medicare) or entitled to assistance for medical expenses under any other public assistance program or private health insurance program. Reimbursement for health services to such persons should be collected on the basis of the full amount of fees and payments for those services without application of any discount (42 USC 254b(j)(3)(F) and (G)(ii)(II)).
3. Program income, including, but not limited to, fees, premiums and third-party reimbursements may be used for allowable activities (see III.A.1. above) and for such other purposes as are not specifically prohibited if such use furthers the objectives of the project (42 USC 254b(e)(5)(C)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable, if specified in the terms and conditions of award.

- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS 272 series of reports.

2. Performance Reporting - Not Applicable

3. Special Reporting - *Uniform Data System (OMB No. 0915-0193)* - This system is comprised of two separate sets of reports, the Universal Report and Grant Reports. The conditions for their use are:

- Grantees that receive a single grant under the consolidated health centers program or that receive CHC and/or MHC grants only are required to complete the *Universal Report* only.
- Grantees that receive multiple awards (in addition to or other than CHC and MHC grants) must complete a *Universal Report* for the combined grants and a separate *Grant Report* for each HCH grant.

Key Line Items - The following line items contain critical information:

- a. Table 5 - *Staffing and Utilization*
 - (1) Line 8 - *Total Physicians*
 - (2) Line 15 - *Total Medical Care Services*
 - (3) Line 19 - *Total Dental Services*
 - (4) Line 29 - *Total Enabling Services*
 - (5) Line 33 - *Total Administration and Facility*
- b. Table 8 Part A - *Financial Costs*
 - (1) Line 4(c) - *Total Medical Care Services*
 - (2) Line 10(c) - *Total Other Professional Services*
 - (3) Line 13(c) - *Total Enabling and Non-Medicare Services*
 - (4) Line 16 - *Total Overhead*

(5) Line 18 - *Value of Donated Supplies and Services*

c. Table 9 Part D - *Patient Related Revenue*

(1) Line 1 - *Medicaid Non-managed Care*

(2) Line 2a - *Medicaid Managed Care (capitated)*

(3) Line 2b - *Medicaid Managed Care (fee-for-service)*

(4) Line 7 - *Other Public including Non-Medicaid CHIP (non-managed care)*

(5) Line 10 - *Private Non-Managed Care*

(6) Line 11a - *Private Managed Care (capitated)*

(7) Line 11b - *Private Managed Care (fee-for-service)*

(8) Line 13 - *Self Pay*

N. Special Tests and Provisions

1. Governing Board

Compliance Requirement – Unless the requirement for a governing board is waived by HRSA or the center is operated by an Indian tribe or tribal or Indian organization under the Indian Self-Determination Act or an urban Indian organization under the Indian Health Care Improvement Act, the health center must have a governing board that (1) is composed of individuals, a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center; (2) meets at least once a month; (3) selects the services to be provided by the center; (4) schedules the hours during which services will be provided by the center; (5) approves the center’s annual budget; (6) approves the selection of a director for the center; and (7) except in the case of a public center, establishes general policies for the center (42 USC 254b(j)(3)(H)).

Audit Objectives - Determine whether (1) the center has adopted and periodically reviews and updates, as necessary, by-laws or other internal policies for governing board selection and operation; (2) the board meets at least monthly and approves the annual budget; and (3) for actions occurring during the audit period that, by statute, require governing board decision or approval, the center complied with the statute and its by-laws/internal operating procedures.

Suggested Audit Procedures

1. Ascertain if the center has by-laws or other internal policies addressing the required elements of the board and its operation.

2. Review meeting minutes to ascertain if the board approved the annual budget.
3. As of the end of the year preceding the audit, determine the board membership, services provided, operating hours, and center director. Ascertain if changes occurred in any of these areas during the audit period and, if so, whether the governing board had the type of involvement required by the statute and acted in compliance with the center's by-laws/internal operating procedures.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.268 IMMUNIZATION GRANTS****I. PROGRAM OBJECTIVES**

The objective of the immunization grant program is to reduce and ultimately eliminate vaccine preventable diseases (VPDs) by increasing and maintaining high immunization coverage. Emphasis is placed on populations at highest risk for under-immunization and disease, including children eligible under the Vaccines for Children (VFC) program.

II. PROGRAM PROCEDURES

The Immunization Grants program consists of two parts: Discretionary Section 317 Immunization Grants and VFC Entitlement Funds.

The objective of the Discretionary Section 317 Immunization Grant program is to reduce and ultimately eliminate vaccine preventable diseases (VPDs) by increasing and maintaining high immunization coverage. Emphasis is placed on populations at highest risk for under-immunization and disease, which includes VFC-eligible children. The statute refers to development of programs for all individuals for whom vaccines are recommended, including infants and children, adolescents and adults. The intent of the Discretionary Section 317 immunization grant program is to supplement, not supplant, each grantee's immunization effort at the State/local level. The Centers for Disease Control and Prevention (CDC), through its grant guidance, has identified the following areas of activity for programmatic emphasis and funding prioritization: improvements in the quality and quantity of vaccination-delivery services; reduction in vaccine cost as a barrier for needy children; increases in community participation, education, and partnerships; improvements in monitoring of disease and vaccine coverage; and improvements in vaccines and vaccine use.

VFC Entitlement Funds are activity-based financial assistance and direct assistance in the form of vaccine and Federal personnel assigned by CDC. VFC funds are provided to eligible grantees to develop and operate programs designed to ensure effective delivery of vaccination services to the public, through enrolled providers of medical care. Grantees are required to encourage a variety of different providers to participate in the VFC program and to administer vaccines in an appropriate cultural context. Other criteria, detailed in annual grant application guidance documents, may also apply.

Under VFC, children through 18 years of age are eligible for VFC-purchased vaccine if they are Medicaid-eligible, American Indian/Alaskan Native, or without health insurance. Children who are insured but whose insurance does not cover vaccination also are eligible to receive VFC vaccine at Federally Qualified Health Centers or Rural Health Clinics. The intent of the VFC program is to ensure adequate funding for vaccine purchases and to promote comprehensive health care in a medical home for all children, while reducing the number that are referred to the public sector because they cannot afford the vaccine costs. The VFC program authorizes participating immunization providers in all States to receive publicly-purchased vaccine for

administration to VFC-eligible children. The goal is to ensure that no child contracts a VPD because of his or her parent cannot afford to pay for the vaccine or its administration.

Funds for administrative and operations costs are provided directly to the States. Funds for vaccine purchase are maintained in an account at CDC. When a State requires a specified quantity of vaccine, an electronic request is made to CDC. The State's account is verified to ascertain if there are sufficient funds to accommodate the request. If so, funds are obligated by CDC and an order for the vaccine is sent to the manufacturer, who ships the order to the State. Upon receipt, the State verifies the quantity received and informs CDC electronically.

Some States maintain central vaccine depots or pay a third party vendor to store the vaccine, which then receives orders from and ships vaccine to providers. Other States are more decentralized. Select grantees receive periodic reviews from CDC or its representative regarding their vaccine shipping, storage, and handling practices. Because CDC receives the vaccine at a discounted rate from the manufacturer, there is no return collection for unused or expired vaccine. A State may, however, apply to receive an excise tax credit for such vaccine.

Source of Governing Requirements

These programs are authorized under 42 USC 247b, 42 USC 243, 42 USC 300aa-3, 300aa-25 and 300aa-26 and 42 USC 1396s. Regulations specific to Discretionary Section 317 Grants may be found at 42 CFR part 51b.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Discretionary Section 317 Grant funds may be used to establish and maintain a preventive health service program, including:
 - a. Research into the prevention and control of diseases that may be prevented through vaccination;
 - b. Demonstration projects for the prevention and control of such diseases;
 - c. Public information and education programs for the prevention and control of such diseases;
 - d. Education, training and clinical skills improvement activities in the prevention and control of such diseases for health professionals; and

- e. Operational activities associated with the conduct of a successful immunization program (42 USC 247b(k)(1)).
2. The VFC program is intended primarily as a vaccine purchase and supply program for eligible children. VFC funds may be expended to support costs
 - a. Associated with VFC vaccine ordering;
 - b. VFC vaccine distribution; and
 - c. Direct VFC program operations, such as provider recruitment and enrollment, overall VFC program coordination, vaccine management and accountability, VFC provider accountability and site visit assessments, and VFC program evaluation (42 USC 1396s).

E. Eligibility

1. Eligibility for Individuals

- a. Discretionary Section 317 Grants - Not Applicable.
 - b. VFC Program-eligible child is defined as any of the following:
 - (1) Medicaid-eligible child (42 USC 1396s(b)(2)(A)(i));
 - (2) An American Indian/Alaskan Native child (as defined in section 4 of the Indian Health Care Improvement Act) (42 USC 1396s(b)(2)(A)(iv));
 - (3) A child who is not insured (42 USC 1396s(b)(2)(A)(ii)); or
 - (4) A child who (i) is administered a vaccine by a Federally Qualified Health Center or Rural Health Clinic and (ii) is not insured with respect to the vaccine (42 USC 1396s(b)(2)(A)(iii)).
 - c. Providers administering Discretionary Section 317 Grants or VFC-purchased vaccine may not deny administration of a vaccine to a 317 or VFC-eligible child due to the inability of the child's parent to pay an administration fee (42 USC 247b (j) and 42 USC 1396s(c)(2)(C)(iii)).
2. **Eligibility of Groups of Individuals or Area of Service Delivery - Not Applicable**
 3. **Eligibility for Subrecipients - Not Applicable**

J. Program Income

Grantees providing direct immunization services may generate program income from fees or donations. Fees charged under VFC, however, may not exceed the maximum reimbursement schedule established by the Health Care Financing Administration, the delegated authority. This cap does not apply to Discretionary Section 317 Grants. However, no one may be denied immunization services due to the inability to pay a fee or donation (42 USC 1396s(c)(2)(C)).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable for Discretionary Section 317 Grants, but not applicable for VFC Entitlement Funds.
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS 272-E, Major Program Statement.

2. Performance Reporting - Not Applicable**3. Special Reporting** - Not Applicable**N. Special Tests and Provisions****1. Control, Accountability, and Safeguarding of Vaccine**

Compliance Requirement - Effective control and accountability must be maintained for all vaccine. Vaccine must be adequately safeguarded and used solely for authorized purposes (A-102 Common Rule § ____.20).

Audit Objective - Determine whether proper control and accountability were maintained for vaccine and whether vaccine was properly safeguarded.

Suggested Audit Procedures:

- a. Test a sample of inventory records to ensure proper recording of receipt, transfer, and usage of vaccine.

- b. Review storage of vaccine for proper safeguarding including risks of loss from theft, expiration, or improper storage temperature.

2. Record of Immunization

Compliance Requirement - A record of vaccine administered shall be made in each person's permanent medical record (or in a permanent office log or file to which a legal representative shall have access upon request) (42 USC 300aa-25):

- a. Date of administration of the vaccine
- b. Vaccine manufacturer and lot number of the vaccine
- c. Name and address and, if appropriate, the title of the health care provider administering the vaccine

Audit Objective - Determine whether the required information has been recorded for vaccine recipients.

Suggested Audit Procedures

- a. Obtain an understanding of how the vaccination records are maintained.
- b. Test a sample of vaccinations to ascertain if the required records were maintained.

3. Monitoring For-Profit Subrecipients

Compliance Requirement - Significant portions for this program are passed through from the pass-through entity (usually the State) to for-profit subrecipients in the form of vaccine. Since OMB Circular A-133 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 (OMB Circular A-133 ____ .210(e)) and for monitoring and reporting program performance by for-profit subrecipients (A-102 Common Rule §____.40(a)). The compliance requirements applicable to for-profit subrecipients under this program are:

- a. Eligibility requirements in "III.E.1 Eligibility for Individuals"
- b. Control of vaccine in "III.N.1 Control, Accountability, and Safeguarding of Vaccine."
- c. Record keeping in "III.E.2 Record of Immunization"

Audit Objective - Determine whether the pass-through entity:

- a. Identified compliance requirements to the for-profit subrecipient.

- b. Monitored for-profit subrecipient activities to provide reasonable assurance that the for-profit subrecipient administers awards in compliance with Federal requirements.

Suggested Audit Procedures:

- a. Discuss for-profit subrecipient monitoring with the pass-through entity's staff to gain an understanding of the scope of monitoring activities.
- b. Test award documents and approved agreements to ascertain if the pass-through entity made for-profit subrecipients aware of the compliance requirements imposed by laws, regulations, and the provisions of contract, grant, or agency agreements.
- c. Review the pass-through entity's documentation of for-profit subrecipient monitoring to ascertain if the pass-through entity monitored for-profit subrecipients for compliance with:
 - 1. Eligibility requirements in "III.E.1 Eligibility for Individuals"
 - 2. Control and accountability of vaccine in "III.N.1 "Control, Accountability, and Safeguarding of Vaccine."
 - 3. Record keeping in "III.N.2 Record of Immunization."

IV. OTHER INFORMATION

The value of vaccine received by the States and its subrecipients as well as grant funds shall be included in the total expenditures of CFDA 93.268 when determining Type A programs. The value of vaccine shall be included with grant funds on the Schedule of Expenditure of Federal Awards.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.556 PROMOTING SAFE AND STABLE FAMILIES****I. PROGRAM OBJECTIVES**

The Promoting Safe and Stable Families (PSSF) program provides funds to States and Indian Tribes to prevent the unnecessary separation of children from their families, improve the quality of care and services to children and their families, and ensure permanency for children by reuniting them with their parents, by adoption or by another permanent living arrangement. The program includes: family support, family preservation, time-limited family reunification, and adoption promotion and support services.

II. PROGRAM PROCEDURES**Administration and Services**

The Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS), administers the PSSF. To be eligible for funds, each State and Indian Tribe must submit a five-year comprehensive State plan, the Child and Family Services State Plan (CFSP). This plan encompasses planning and service delivery for the full child welfare services spectrum. This includes: Title IV-B, Subpart 1, child abuse and prevention, foster care, adoption, and independent living services.

The ACF Regional Offices have approval authority for the plans. Following ACF approval, allotments are based on the number of children in the States who received food stamps in the previous three years. Grants may also be made to Indian Tribes that qualify under the allotment formula; no Tribe may be funded if its allotment is less than \$10,000. PSSF services are based on several key principles. The welfare and safety of children and of all family members should be maintained while strengthening and preserving the family. It is advantageous for the family as a whole to receive services, which identify and enhance its strengths while meeting individual and family needs. Services should be easily accessible, often delivered in the home or in community-based settings, and they should respect cultural and community differences. In addition, they should be flexible, responsive to real family needs, and linked to other supports and services outside the child welfare system. Services should involve community organizations and residents, including parents, in their design and delivery. They should be intensive enough to keep children safe and meet family needs, varying between preventive and crisis services.

Source of Governing Requirements

PSSF is authorized under Title IV-B, Subpart 2 of the Social Security Act, as amended, and is codified at 42 USC 629a through 629e. Implementing program regulations are published at 45 CFR parts 1355 and 1357.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Community-based Services* - Programs delivered in accessible settings in the community and responsive to the needs of the community and the individuals and families residing therein. These services may be provided under public or private nonprofit auspices (45 CFR section 1357.10(c)).
2. *Family Preservation Services* - Services for children and families designed to protect children from harm and help families (including foster, adoptive, and extended families) at risk or in crisis, including (42 USC 629a(a)(1)):
 - a. Preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain with their families, where possible;
 - b. Service programs designed to help children, where appropriate, return to families from which they have been removed; or be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;
 - c. Service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement;
 - d. Respite care of children to provide temporary relief for parents and other caregivers (including foster parents);
 - e. Services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition; and
 - f. Case management services designed to stabilize families in crisis such as transportation, assistance with housing and utility payments, and access to adequate health care.

3. *Family Support Services* - Community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a stable and supportive family environment, and otherwise to enhance child development. Family support services may include (45 CFR section 1357.10(c)):
 - a. Services, including in-home visits, parent support groups, and other programs designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition;
 - b. Respite care of children to provide temporary relief for parents and other caregivers;
 - c. Structured activities involving parents and children to strengthen the parent-child relationship;
 - d. Drop-in centers to afford families opportunities for informal interaction with other families and with program staff;
 - e. Transportation, information and referral services to afford families access to other community services, including child care, health care, nutrition programs, adult education literacy programs, legal services, and counseling and mentoring services; and
 - f. Early developmental screening of children to assess the needs of such children, and assistance to families in securing specific services to meet these needs.

4. *Time-Limited Family Reunification Services* - Services and activities that are provided to a child who is removed from his/her home and placed in a foster family home or a child care institution and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion. These services are provided only during the 15-month period that begins on the date that the child, pursuant to 42 USC 675(5)(F), is considered to have entered foster care. The services and activities are the following (42 USC 629a(a)(7)):
 - a. Individual, group, and family counseling;
 - b. Inpatient, residential, or outpatient substance abuse treatment services;
 - c. Mental health services;

- d. Assistance to address domestic violence;
 - e. Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries;
 - f. Transportation to or from any of the services and activities described above.
5. *Adoption Promotion and Support Service* - Services and activities designed to encourage more adoptions out of the foster care system, when adoption promotes the best interest of the child, including such activities as pre- and post-adoptive services and activities designed to expedite the adoption process and support adoptive families (42 USC 629a(a)(8)).
 6. *Program Costs* - Program costs are costs, other than administrative costs, incurred in connection with developing and implementing the CFSP (e.g., delivery of services, planning, consultation, coordination, training, quality assurance measures, data collection, evaluations, and supervision) (45 CFR section 1357.32).
 7. Funds awarded under Title IV-B, Subpart 2, may not be used for the purchase or construction of facilities (45 CFR section 1357.32(e))

G. Matching, Level of Effort, and Earmarking

1. Matching

Funds are federally reimbursed at 75 percent of allowable expenditures. The State's contribution may be in cash, donated funds, and non-public third party in-kind contributions. Except as provided by Federal statute, other Federal funds may not be used to meet the matching requirement (45 CFR section 1357.32(d)).

2. Level of Effort - Not Applicable

3. Earmarking

States may not claim more than 10 percent of expenditures for administrative costs (42 USC 629b(a)(4)).

H. Period of Availability of Federal Funds

Funds must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded (45 CFR section 1357.32(g)).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS-272 series of reports.

2. Performance Reporting - Not Applicable**3. Special Reporting** - Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.558 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)****I. PROGRAM OBJECTIVES**

The objectives of the State and Tribal TANF programs are to provide time-limited assistance to needy families with children so that the children can be cared for in their own homes or in the homes of relatives; end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; prevent and reduce out-of-wedlock pregnancies, including establishing prevention and reduction goals; and encourage the formation and maintenance of two-parent families. This program replaced the Aid to Families with Dependent Children (AFDC), Job Opportunities and Basic Skills Training (JOBS), and Emergency Assistance (EA) programs.

II. PROGRAM PROCEDURES**Administration and Services**

The Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS), administers the TANF program on behalf of the Federal Government. To be eligible for the TANF block grant, a State (including the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa) must submit a State plan containing specified information and assurances within the 27-month period prior to the Federal fiscal year in which the funds are to be provided.

Following ACF review of the State Plan and determination that it is complete, ACF awards the basic "State Family Assistance Grant" (SFAG) to the State using a formula allocation derived from funding levels under the superseded programs. The SFAG is a fixed amount to the State subject to reductions based on any penalties assessed. In addition, amounts may be adjusted on the basis of separate Federal funding of counterpart Indian Tribal programs within the State. States meeting the qualifying criteria may also receive supplemental grants, bonuses, loans, and payments from a contingency fund. As long as the minimum requirements are met, States have significant flexibility in designing programs and determining eligibility requirements and may use grant funds to provide cash or non-cash assistance, including direct services, and for administrative activities. Along with the discretion provided to the States, there are also a number of provisions to ensure accountability for results, in the form of monetary penalties, and requirements to provide a variety of data to ACF about expenditures and individuals receiving benefits under the program. In addition to the penalties for failure to meet programmatic or administrative requirements, a State may be rewarded for its performance in program-related areas, such as reducing out-of-wedlock births.

Tribes

Tribal Family Assistance plans (TFAP) are developed for a three-year period and submitted to ACF for review and approval. The Tribal Family Assistance Grant (TFAG) is derived from an amount equal to the Federal share of expenditures, other than child care costs, by the State or

States under the former AFDC, EA, and JOBS programs for fiscal year 1994 for all American Indian families residing in the service area identified in the Tribal TANF plan.

As long as the minimum requirements are met, Tribes have significant flexibility in designing programs and determining eligibility requirements and may use grant funds to provide cash or non-cash assistance, including direct services, and for administrative activities.

Tribal TANF grantees may operate the program under a consolidated Public Law 102-477 program. Pub.L. 102-477 refers to the Indian Employment, Training and Related Services Demonstration Act of 1992, the purpose of which is to provide for the integration of employment, training and related services to improve the effectiveness of those services. For Tribal TANF, Tribes operating a consolidated Pub.L. 102-477 program must still submit a TFAP to the Secretary of HHS for review and approval prior to consolidation of the Tribal TANF program into a Pub.L. 102-477 plan. Tribal TANF data collection and reporting requirements identified and referenced elsewhere in this document still apply. All statutory and regulatory requirements remain in effect for the duration of the grant.

Other Considerations

Funding Methods - States

States have different funding options under which to expend Federal grant funds and State Maintenance of Effort (MOE) funds as follows.

1. *Federal Only* - Under this option, Federal grant funds are segregated from MOE funds that are expended in the TANF program operated by the State.
2. *Commingled Federal/State* - Under this option, States commingle their MOE funds with Federal grant funds expended in the TANF program operated by the State. A commingled funding structure means that all expenditures are subject to all Federal funding restrictions, TANF requirements, and MOE limitations.
3. *Segregated State* - Under this option, MOE funds are segregated from the Federal grant funds and expended in the TANF program operated by the State.
4. *Separate State Program* - Under this option, States spend their MOE funds in separate State programs, operated outside of the TANF program operated by the State.

Federal grant funds and MOE funds must both be used for "expenditures." A definition of the term "expenditure" is found in 45 CFR section 260.30. In addition, section 260.33 explains the circumstances under which certain State tax relief provisions would count as expenditures.

Waivers - States

Waivers granted under the authority of Section 1115 of the Social Security Act that allowed a State to operate a program that did not comply with specific statutory requirements of TANF's predecessor programs remain in effect in some States. In some cases, these waivers are

inconsistent with the statutory requirements of the TANF program, but are being allowed under 42 USC 615 to continue until their expiration, despite the inconsistency.

Funding Methods - Tribes

Tribes have different funding options under which to expend Federal grant funds and, where applicable, State MOE funds as follows.

1. *Federal Only* - Under this option, Federal grant funds are segregated from any State-donated MOE funds or Tribal funds that are expended in the TANF program operated by the Tribe.
2. *Commingled Federal/State-donated MOE* - Under this option, Tribes commingle their State-donated MOE funds with Federal grant funds expended in the TANF program operated by the Tribe. A commingled funding structure means that all expenditures are subject to all Federal funding restrictions and MOE limitations.
3. *Segregated Tribal* - Under this option, MOE funds are segregated from the Federal grant funds and expended separately in the TANF program operated by the Tribe.

See "IV. Other Information" for guidance on State MOE Expended by Tribes.

Source of Governing Requirements

This program is authorized under Title IV-A of the Social Security Act, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. No. 104-193), and subsequent amendments thereto, and codified at 42 USC 601-619. PRWORA was signed into law on August 22, 1996, and required State implementation no later than July 1, 1997.

On April 12, 1999, ACF published final regulations for the TANF program. These final rules took effect October 1, 1999 (April 12, 1999, *Federal Register* (64 FR 17720 *et seq.*)). ACF also published technical and correcting amendments to the final rule on July 26, 1999, which were also effective on October 1, 1999 (July 26, 1999, *Federal Register* (64 FR 40290 *et seq.*)). Thus, the obligations and expenditures of Federal TANF funds on or after October 1, 1999, and any State actions occurring on or after October 1, 1999, are subject to the provisions in the final rules, as amended.

PRWORA also authorized any Federally recognized Tribe in the lower 48 states, 13 specified Alaska Native entities, and consortia of eligible Tribes to apply for funding under section 412 of the Act to administer a Tribal TANF program beginning July 1, 1997. The Foster Care Independence Act of 1999 (Pub.L. 106-169, December 14, 1999) also included technical amendments to the Act which affected program regulations. Implementing regulations for Tribal TANF are 45 CFR Parts 286 and were published in the Federal Register on February 18, 2000 (65 FR 8477).

TANF is subject to the A-102 Common Rule and OMB Circular A-87. This is in contrast to AFDC, which, as described in Appendix I, was excluded from the A-102 Common Rule.

Availability of Other Program Information

Other general program information is available from the Office of Family Assistance (OFA) site on the Internet at www.acf.dhhs.gov/programs/ofa and the Division of Tribal Services website at www.acf.dhhs.gov/programs/dts. Questions related to the TANF program may be directed to Oscar Tanner at 202-401-5704 (direct) and 202-401-9236 (main) or by e-mail at otanner@acf.dhhs.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. States: Federal Only

- a. Funds may be used for expenditures for activities that are not permissible under 42 USC 601, but for which the State was authorized to use IV-A or IV-F funds under prior law. The previously authorized activities must have been included in a State's approved State AFDC plan, JOBS plan, or Supportive Services Plan, as in effect on September 30, 1995, or at the State's option, on August 21, 1996. Examples of such activities are authorized juvenile justice and foster care activities (42 USC 604(a)(2); 45 CFR section 263.11(a)(2)).
- b. A State may transfer up to 30 percent of the combined total of funds received under the State family assistance grant, supplemental grant for population increases, and bonus funds for high performance and illegitimacy reduction, if any, for a given fiscal year to carry out programs under the Social Services Block Grant (Title XX) (CFDA 93.667) and/or the Child Care and Development Block Grant (CFDA 93.575). However, no more than 10 percent may be transferred to Title XX, and such amounts may be used only for programs or services to children or their families whose income is less than 200 percent of the poverty level. Contingency funds under 42 USC 603(b) cannot be transferred under this authority (Department of Health and Human Services Appropriations Act, 2001, as enacted by section 1(a)(1) of P.L. 106-554; 42 USC 604(d); 45 CFR section 264.72(e)). The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a page on the Internet which provides the poverty guidelines (<http://aspe.os.dhhs.gov/poverty/poverty.htm>).

2. *States: Federal Only and Commingled Federal/State*
 - a. Funds may not be used to provide medical services other than pre-pregnancy family planning services (42 USC 608(a)(6)).

3. *States: Federal Only, Commingled Federal/State, Segregated State, Separate State Program*
 - a. Funds may be used in any manner reasonably calculated to achieve the purposes of the program, including providing low-income households with assistance in meeting home heating and cooling costs (42 USC 604(a)(1) and 45 CFR section 263.11(a)(1)). As specified in 42 USC 601 and 45 CFR section 260.20, the TANF program has the following purposes:
 - (1) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
 - (2) End dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
 - (3) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
 - (4) Encourage the formation and maintenance of two-parent families.
 - b. A State may use funds for programs to prevent and reduce the number of out-of-wedlock pregnancies, including programs targeted to law enforcement officials, the educational system and counseling services, that provide education and training of women and men on the problem of statutory rape (42 USC 602(a)(1)(A)(v) and (vi)).
 - c. Funds may be used to make payments or provide job placement vouchers to State-approved public and private job placement agencies providing employment placement services to individuals receiving assistance under TANF (42 USC 604(f)).
 - d. Funds may be used to implement an electronic benefits transfer system (42 USC 604(g)).
 - e. Funds may be used to carry out a program to fund individual development accounts (42 USC 604(h)(2); 45 CFR sections 263.20 through 263.23) established by individuals eligible to receive assistance under TANF (42 USC 604(h); 45 CFR part 263, subpart C).
 - f. A State may contract with charitable, religious and private organizations to provide administrative and programmatic services and may provide beneficiaries of assistance with certificates, vouchers, or other forms of disbursement which are redeemable with such organization (42 USC 604a(b) and 42 USC 604a(k)).

4. *States: Federal Only, Commingled Federal/State, Segregated State*
 - a. Funds may not be used for sectarian worship, instruction, or proselytization (42 USC 604a(j)).

5. *Tribes: Federal Only*
 - a. Funds may be used for expenditures for activities that are not permissible under 42 USC 601, but for which the State or Tribe was authorized to use IV-A or IV-F funds under prior law. The previously authorized activities must have been included in a State's approved State AFDC plan, JOBS plan, or Supportive Services Plan, as in effect on September 30, 1995, or at the State's option, on August 21, 1996. Examples of such activities are authorized juvenile justice and foster care activities (42 USC 604(a)(2); 45 CFR section 263.11(a)(2)). Use of such funds in the Tribal TANF program is allowed if the geographic area of the Tribal TANF program is within the State(s) having had an approved AFDC State plan(s) under title IV-A which included these activities. If the Tribe plans to exercise this option, these activities must be included in the approved Tribal TFAP.

6. *Tribes: Federal Only, Commingled Federal/State-donated MOE, Segregated Tribal*
 - a. Funds may be used in any manner reasonably calculated to achieve the purposes of the Tribal TANF program, including providing low-income households with assistance in meeting home heating and cooling costs (42 USC 604(a)(1) and 45 CFR section 286.35(a)(1)). As specified in 42 USC 601 and 45 CFR section 286.35, the Tribal TANF program has the following purposes:
 - (1) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
 - (2) End dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
 - (3) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
 - (4) Encourage the formation and maintenance of two-parent families.

 - b. A Tribe may use funds for programs to prevent and reduce the number of out-of-wedlock pregnancies, including programs targeted to law enforcement officials, the educational system and counseling services, that provide education and training of women and men on the problem of statutory rape (42 USC 602(a)(1)(A)(v) and (vi)).

 - c. Funds may be used to make payments or provide job placement vouchers to Tribe-approved public and private job placement agencies providing

employment placement services to individuals receiving assistance under TANF (42 USC 604(f)).

- d. Funds may be used to implement an electronic benefits transfer system (42 USC 604(g)).
- e. Funds may be used to carry out a program to fund individual development accounts (42 USC 604(h)(2)) established by individuals eligible to receive assistance under Tribal TANF (42 USC 604(h); 45 CFR section 286.40).
- f. A Tribe may contract with charitable, religious and private organizations to provide administrative and programmatic services and may provide beneficiaries of assistance with certificates, vouchers, or other forms of disbursement which are redeemable with such organization (42 USC 604a(b) and 42 USC 604a(k)).
- g. Funds may not be used for sectarian worship, instruction, or proselytization (42 USC 604a(j)).

C. Cash Management

Under the State TANF program's MOE requirement, the drawdown of Federal cash should not exceed the federally funded portion of TANF expenditures taking into account the MOE requirements. For example, if a State has an MOE level that is calculated to be 40 percent of the total funds for a fiscal year, Federal draws should not exceed 60 percent of the amount needed to cover disbursements in any time period (Department of the Treasury, Financial Management Service CMIA Policy Statement Number 19).

E. Eligibility

1. Eligibility for Individuals

The State or Tribal Plan provides the specifics on how eligibility is determined in each State or Tribal service area. Plan and eligibility requirements must comply with the following Federal requirements:

- a. *States: Federal Only, Commingled Federal/State, Segregated State, and Separate State Program -*

To be eligible for TANF "assistance" as defined in 45 CFR section 260.31 or any MOE-funded benefits, services, or "assistance," a family must include a minor child who lives with a parent or other adult caretaker relative. The child must be less than 18 years old, or, if a full-time student in a secondary school (or the equivalent level of vocational or technical training), less than 19 years old. (With respect to segregated or separate State MOE funds, the State could use the definition for minor child given

in section 419(2) of the Act or some other definition applicable in State law provided the State can articulate a rationale basis for the age they choose.) A family must also be "needy"-- i.e., financially eligible according to the State's applicable income and resource criteria (42 USC 602, 602(a)(1)(B)(iii), 42 USC 609(a)(7)(B)(IV), 608(a)(1), 619(2) and 45 CFR 263.2(b)(2)).

Note: A State may continue to provide federally funded (*Federal Only*) TANF "assistance" pursuant to 42 USC 604(a)(2) using the financial eligibility criteria contained in the State's approved AFDC, EA, JOBS, or Supportive Services plan as of September 30, 1995 (or at State option, as of August 21, 1996). A State may also continue this assistance notwithstanding the family composition requirement described above. (See III A.1.a)

Only the "needy" are eligible for services, benefits, or "assistance" pursuant to TANF purpose 1 or 2 (42 USC 601(a)(1) and (2); 45 CFR sections 260.20(a) and (b)). "Needy" for TANF and MOE purposes means financial deprivation -- i.e., lacking adequate income and resources. For example, a needy family or a needy parent is one who is financially eligible according to the State's financial eligibility criteria (income and resource (if applicable) standards (April 12, 1999, *Federal Register* (64 FR 17825))).

b. *States: Federal Only and Commingled Federal/State -*

- (1) Any family that includes an adult or minor child head of household or a spouse of the head of household who has received assistance under any State program funded by Federal TANF funds for 60 months (whether or not consecutive) is ineligible for additional federally funded TANF assistance. However, the State may extend assistance to a family on the basis of hardship, as defined by the State, or if a family member has been battered or subjected to extreme cruelty. In determining the number of months for which the head of household or the spouse of the head of household has received assistance, the State must not count any month during which the adult received the assistance while living in Indian country or in an Alaskan Native Village and the most reliable data available with respect to that month (or a period including that month) indicate at least 50 percent of the adults living in Indian country or in the village were not employed (42 USC 608(a)(7); 45 CFR sections 264.1(a), (b), and (c)).

(See "III.G.3., Earmarking" for testing the limits related to the number of exemptions.)

- (2) A State may not provide assistance to an individual who is under age 18, is unmarried, has a minor child at least 12 weeks old, and has not successfully completed high school or its equivalent unless the individual either participates in education activities directed toward attainment of a high school diploma or its equivalent, or participates in an alternative education or training program approved by the State (42 USC 608(a)(4); 45 CFR section 263.11(b)).
- (3) A State may not provide assistance to an unmarried individual under 18 caring for a child, if the minor parent and child are not residing with a parent, legal guardian, or other adult relative, unless one of the statutory exceptions applies (42 USC 608(a)(5)).
- (4) A State may not provide assistance for a minor child who has been or is expected to be absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 180 consecutive days unless the State grants a good cause exception, as provided in its State Plan (42 USC 608(a)(10)).
- (5) A State may not provide assistance for an individual who is a parent (or other caretaker relative) of a minor child who fails to notify the State agency of the absence of the minor child from the home, as in paragraph e. immediately above, within five days of the date that it becomes clear to that individual that the child will be absent for the specified period of time (42 USC 608(a)(10)(C)).
- (6) A State may not use funds to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to place of residence in order to simultaneously receive assistance from two or more States under TANF, Title XIX, or the Food Stamp Act of 1977, or benefits in two or more States under the Supplemental Security Income program under Title XVI of the Social Security Act. If the President of the United States grants a pardon with respect to the conduct which was the subject of the conviction, this prohibition will not apply for any month beginning after the date of the pardon (42 USC 608(a)(8)).
- (7) A State may not provide assistance to any individual who is fleeing to avoid prosecution, or custody or confinement after conviction, for a felony or attempt to commit a felony (or in the State of New Jersey, a high misdemeanor), or who is violating a condition of probation or parole imposed under Federal or State law (42 USC 608(a)(9)(A)).

- (8) Qualified aliens, as defined at 8 USC 1641b, entering the United States on or after August 22, 1996, are not eligible for Federal public benefits, as defined in 8 USC 1611(c), for a period of five years beginning on the date of the alien's entry into the United States, unless they meet an exception at 8 USC 1612(b)(2) or 1613. (If the Federal public benefit meets the specifications in the Attorney General's Order (Order No. 2049-96 published August 30, 1996 at 61 FR 45985; Order No. 2353-2001 published January 16, 2001 at 66 FR 3613), then the State may provide the benefit regardless of immigration status (8 USC 1611 (b)(1)(D)). A State may, at its option, provide Federal public benefits to qualified aliens who entered the United States before August 22, 1996, and, for aliens entering the United States on or after August 22, 1996, after the expiration of the five-year time bar. Non-qualified aliens may not receive Federal public benefits unless one of the exceptions at 8 USC 1612(b)(2) applies (8 USC 1612 and 1613).

c. *States: Federal Only, Commingled Federal/State, Segregated State*

- (1) A State shall require, as a condition of providing assistance, that a member of the family assign to the State the rights the family member may have for support from any other person. This assignment does not exceed the amount of assistance provided (42 USC 608(a)(3)).
- (2) An individual convicted under Federal or State law of any offense which is classified as a felony and which involves the possession, use, or distribution of a controlled substance (as defined the Controlled Substances Act (21 USC 802(6))) is ineligible for assistance if the conviction was based on conduct occurring after August 22, 1996. A State shall require each individual applying for assistance under TANF to state in writing whether the individual or any member of their household has been convicted of such a felony involving a controlled substance. However, a State may by law exempt individuals or limit the time period of this prohibition (21 USC 862a).
- (3) If an individual refuses to engage in required work, a State must reduce assistance to the family, at least pro rata, with respect to any period during the month in which the individual so refuses, or may terminate assistance. Any reduction or termination is subject to good cause or other exceptions as the State may establish (42 USC 607(e)(1); 45 CFR sections 261.13 and 261.14(a) and (b)). However, a State may not reduce or terminate assistance based on a refusal to work if the individual is a single custodial parent caring for a child who is less than 6 years of age if the individual can demonstrate the inability (as determined by the State) to obtain

child care for one or more of the following reasons: (1) the unavailability of appropriate care within a reasonable distance of the individual's work or home; (2) unavailability or unsuitability of informal child care; or (3) unavailability of appropriate and affordable formal child care (42 USC 607(e)(2); 45 CFR sections 261.15(a), 261.56, and 261.57).

d.. *Tribes: Federal Only, Commingled Federal/State-Donated MOE*

Eligibility for Tribal TANF is defined in the approved TFAP. See "IV. Other Information" for guidance on State MOE Expended by Tribes.

The approved TFAP includes the Tribe's proposal for time limits for the receipt of TANF assistance (45 CFR section 286.115), as well as the percentage of the caseload to be exempted from the time limit. These proposed time limits must be approved by ACF (45 CFR section 286.115).

2. Eligibility for Groups of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility of Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - Maintenance of Effort

See "IV. Other Information" for guidance on State MOE Expended by Tribes.

The following MOE provisions apply to any State funds that are counted towards the maintenance of effort requirements for TANF, whether such State funds are expended under the *Commingled Federal/State, Segregated State, or Separate State Program* funding options.

- a. *State Basic MOE* - Every fiscal year, a State must maintain an amount of "qualified State expenditures" (as defined in 42 USC 609(a)(7)(B) and 45 CFR section 263.2) for eligible families (as defined in 42 USC 609(a)(7)(B)(i)(IV) and 263.2(b)) at least at the applicable percentage of the State's historic State expenditures. Therefore, all amounts claimed for or on behalf of eligible families, including amounts that result from State tax provisions, must be the result of expenditure (42 USC 609(a)(7)(A) and (B)(i)(I); 45 CFR sections 260.30 ("expenditure") and 260.33). States may claim qualified expenditures for eligible family members who are citizens or aliens. However, the particular aliens for whom a State may claim qualified expenditures will depend on the State funds used to provide the benefit or service (*Commingled Federal/State, Segregated*

State, or Separate State Program) and whether the benefit or service is a Federal, State, or local public benefit (8 USC 1611, 1612(b), 1613, 1621-1622, and 1641(b)).

The applicable percentage for fiscal years 1997 through 2002 is 80 percent of the amount of non-Federal funds the State spent in fiscal year (FY) 1994 on AFDC or 75 percent if the State meets the Act's work participation rate requirements (42 USC 607(a)) for the fiscal year. This is termed "basic MOE" and the requirement is based on the Federal fiscal year. This amount was prorated for FY 1997 based on a State's entry into the program. Qualified expenditures with respect to eligible families may come from all programs, i.e., the State's TANF program as well as programs separate from the State's TANF program (42 USC 609(a)(7)(A) and 609(a)(7)(B)(i)(I); 45 CFR section 263.1).

If a State does not meet the basic MOE requirement, a penalty results. The penalty consists of a reduction of the State's Federal TANF grant for the following fiscal year in the amount of the difference between the State's qualified expenditures and the State's basic MOE. In addition, a State that receives a Welfare-to-Work (WtW) formula grant pursuant to 42 USC 603(a)(5)(A) will receive a reduction in the amount of its Federal TANF grant for the following fiscal year in the amount of the WtW formula grant paid to the State. (42 USC 609(a)(7)(A) and 609(a)(13); 45 CFR section 263.8). If application of a penalty results in a reduction of Federal TANF funding, a State is required in the immediately succeeding fiscal year to spend from State funds an amount equal to the total amount of the reduction, in addition to the otherwise required basic MOE. The additional funds must be spent in the TANF program, not under "separate State programs." Such expenditures may not be claimed toward the basic MOE (42 USC 609(a)(12); 45 CFR sections 263.6(f) and 264.50).

- b. *States: Limitations on "Qualified State Expenditures"* - Expenditures under pre-existing programs, other than those funded under Title IV-A existing prior to PRWORA/TANF, may not count toward the MOE requirement for the current year except to the extent that the current year's expenditures with respect to eligible families exceed the expenditures made under the State or local program in FY 1995. Thus, to be considered as "exceeding" the FY 1995 level, the expenditures must be new or additional expenditures (42 USC 609(a)(7)(B)(i)(II)(aa) and 45 CFR section 263.5).

In addition, expenditures by the State from amounts that originated from Federal funds may not count toward meeting a MOE requirement even if the expenditures "qualify" (42 USC 609(a)(7)(B)(iv)(I)).

Except for child care expenditures, double-counting of expenditures to meet the basic MOE requirement is prohibited (42 USC

609(a)(7)(B)(iv)(II-IV); 45 CFR section 263.6). States may count State funds expended to meet the requirements of the Child Care Development Fund Matching Fund (CFDA 93.596) as basic MOE expenditures as long as such expenditures meet the requirements of 42 USC 609(a)(7). The maximum amount of child care expenditures that a State may double-count under this provision is the State's Matching Fund MOE amount under CFDA 93.596 (42 USC 609(a)(7)(B)(iv); 45 CFR sections 263.3 and 263.6).

Expenditures for educational services/activities for eligible families to increase self-sufficiency, job training, and work count if the activities or services are not generally available to other State residents without cost and without regard to their income (42 USC 609(a)(7)(B)(i)(I)(cc); 45 CFR section 263.4).

Administrative costs in connection with the activities that correspond to the qualified expenditures may not exceed 15 percent of the total amount of countable expenditures for the fiscal year (42 USC 609(a)(7)(B)(i)(I)(dd); 45 CFR section 263.2(a)(5)).

The basic MOE requirement expressly does not count expenditures for services or activities that only fall under 42 USC 604 (a)(2) (See III.A.2). Such expenditures are not considered "qualified expenditures" (42 USC 609(a)(7)(B)(i)(I); 45 CFR section 263.2(a)(4)).

- c. *States: Contingency Fund MOE* - A State must spend more than 100 percent of its historic State expenditures for FY 1994 to qualify for contingency funds (42 USC 603(b) and 45 CFR sections 264.70 through 77). This is termed "Contingency Fund MOE." The Contingency Fund MOE requirement may be met only through qualified expenditures under the State's TANF program with respect to eligible families. Qualified expenditures consist of those defined under 42 USC 609(a)(7)(B)(i)(I), but excludes those expenditures described in subclause (I)(bb) (42 USC 603(b)(6)(B)(ii) and 609(a)(10)).

2.2 Level of Effort - *Supplement not Supplant* - Not Applicable

3. Earmarking

- a. *States: Federal Only and Commingled Federal/State-*

A State may not spend more than 15 percent for administrative purposes, excluding expenditures for information technology and computerization needed for required tracking and monitoring, of the total combined amounts available under the State family assistance grant, supplemental grant for population increases, bonus funds for high performance and

illegitimacy reduction, and contingency funds (42 USC 604(b)(1) and (2)) and 45 CFR 263.13).

b. *States: Federal Only and Commingled Federal/State -*

The average monthly number of families that include an adult or minor child head of household, or the spouse of the head of household, who has received assistance under any State program funded by Federal TANF funds for more than 60 countable months (whether or not consecutive) may not exceed 20 percent of the average monthly number of all families to which the State provided assistance during the fiscal year or the immediately preceding fiscal year (but not both), as the State may elect. To make this determination for a fiscal year, the average monthly number of families with a head of household or spouse of a head of household who received assistance for more than 60 months would be divided by the average monthly number of families that received assistance in that fiscal year, or, if the State chooses, in the previous fiscal year (42 USC 608(a)(7)(C)(ii); 45 CFR sections 264.1(c) and (e)).

(See "III.E.1 Eligibility for Individuals" for related eligibility testing.)

c. *Tribes: Federal Only and Commingled Federal/State-donated MOE*

The approved TFAP includes a negotiated administrative cost rate for that Tribe for that particular year. As approved in the TFAP, no Tribal TANF grantee may expend more than 35 percent of its TFAG for administrative costs during the first year, 30 percent during the second year, and 25 percent for the third and all subsequent grant periods. The approved Tribal administrative cost rate may be found in a letter of approval issued by the ACF/Division of Tribal services. The Tribal administrative cost cap is determined by multiplying the TFAG by the negotiated administrative rate for the fiscal year being tested (45 CFR 286.50).

H. Period of Availability of Federal Funds

1. States

Funds, other than contingency funds, are available to the State until expended for the purpose of providing assistance under the TANF Program; contingency funds may be used for qualified expenditures only in the fiscal year for which the funding is provided (42 USC 603(b) and 604(e); 45 CFR sections 263.11 and 265.3(c)). Current year TANF funds may be expended on assistance or non-assistance activities during the current fiscal year. However, the following restrictions to unobligated balances and current year obligations on non-assistance apply to the TANF program.

- a. *Unobligated Balances Reported on a State Fourth Quarter Financial Report For the Immediately Preceding Fiscal Year* - Pursuant to section 404(e) of PRWORA of 1996, a State may reserve amounts awarded to the State under section 403 (excluding Contingency Funds), without fiscal year limitation, to provide assistance under the State TANF program. Any Federal Unobligated Balances carried forward into a fiscal year from a prior fiscal year may only be expended on benefits that meet the definition of assistance at 45 CFR section 260.31 and related administrative costs associated with providing such assistance. States have several options for claiming administrative costs when providing assistance with prior year unobligated balances. The State may charge administrative costs related to providing the assistance to the prior year grant if the State has not expended 15 percent of the prior year's Adjusted SFAG on administrative costs previously. If the State has an unobligated balance and has expended the maximum 15 percent on administrative cost previously, the State may charge the administrative costs associated with providing the assistance to current year administrative costs. If the State chooses this option the administrative costs associated with providing assistance with prior year unobligated balances will be included within the 15 percent administrative cost cap for the current fiscal year.

The TANF 15 percent administrative cost cap is based on the Adjusted SFAG (reported on Line 4(A)) divided by the amount the State expends on administration. The administrative cost cap is tracked by the fiscal year for which the funds were awarded and not by the total the State expends on administrative costs in a given fiscal year. States may only charge administrative costs to a prior year grant when it is administering assistance with a prior year unobligated balance.

- b. *Current Fiscal Year Federal Expenditures on Non-Assistance* - The State must obligate by September 30 of the current fiscal year any funds for expenditures on non-assistance. Non-assistance expenditures are reported on Line 6 categories of the *TANF ACF-196 Financial Report*. The State must liquidate these obligations by September 30 of the immediately succeeding Federal fiscal year for which the funds were awarded. If the final liquidation amounts are lower than the original amount obligated, this difference must be included in the Unobligated Balance Line Item for the year in which they were awarded. Unobligated balances from previous fiscal years may only be expended on benefits that meet the definition of assistance at 45 CFR 260.31 and related administrative costs associated with providing such assistance.

2. Tribes

A Tribe may reserve amounts awarded to it, without fiscal year limitation, to provide assistance under the Tribal TANF program. However, a Tribe may only expend funds beyond the fiscal year in which awarded on benefits that meet the

definition of assistance at 45 CFR section 286.10 or on the administrative costs directly associated with providing that assistance (45 CFR 286.60).

- a. *Unobligated Balances Reported on a Tribal Annual SF-269 Financial Report For the Immediately Preceding Fiscal Year* - Pursuant to section 404(e) of the Act (as amended by Pub.L. 106-169, the Foster Care Independence Act of 1999), a Tribe may reserve amounts awarded to the Tribe under section 412, without fiscal year limitation, to provide assistance under the Tribal TANF program. Tribes have several options for claiming administrative costs when providing assistance with prior year unobligated balances. The Tribe may charge administrative costs related to providing the assistance to the prior year grant if the Tribe has not exceeded its negotiated administrative cap for that fiscal year, on administrative costs previously. If the Tribe has an unobligated balance and has exceeded the negotiated administrative cap for the previous fiscal year, the Tribe may charge the administrative costs associated with providing the assistance to current year administrative costs. If the Tribe chooses this option, the administrative costs associated with providing assistance with prior year unobligated balances will be included within the negotiated administrative cost cap for the current fiscal year.
- b. *Current Fiscal Year Federal Expenditures on Non-Assistance* - The Tribe must obligate by September 30 of the current fiscal year any funds for expenditures on non-assistance. The Tribe must liquidate these obligations by September 30 of the immediately succeeding Federal fiscal year for which the funds were awarded. If the final liquidation amounts are lower than the original amount obligated, this difference must be included in the Unobligated Balance Line Item for the year in which they were awarded, on the SF-269 report.

L. Reporting

1. Financial Reporting

- a. SF-269A, *Financial Status Report* - Applicable for Tribes. Not Applicable for States
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request from Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS 272 series of reports.

- e. *TANF Financial Report (OMB Control No. 0970-0199)* - States are required to submit this report quarterly in lieu of the SF-269, *Financial Status Report*. This report replaces the ACF-196 (OMB Control No. 0970-0165). Each State files quarterly expenditure data on the State's use of Federal TANF funds, State TANF expenditures, and State expenditures of MOE funds in separate State programs. If a State is expending Federal TANF funds received in prior fiscal years, it must file a separate quarterly TANF Financial Report for each fiscal year that provides information on the expenditures of that year's TANF funds. Territories report their expenditures and other fiscal data on the *Territorial Financial Report* (45 CFR section 265.3(c) and Appendix D).

2. Performance Reporting

- a. Form ACF-199, *TANF Data Report* (OMB Control No. 0970-0199) and Form ACF-343, *Tribal TANF Data Report* (OMB No. 0970-0215) - These quarterly reports replace and expand the information collected in the *Emergency TANF Data Report* beginning with the first quarter of FY 2000 for States and the fourth quarter of FY 2000 for Tribes.

Key Line Items - The following line items contain critical information.

Section One - Family-Level Data

- Item 12 Type of Family for Work Participation
Item 17 Receives Subsidized Child Care

Section One - Person-Level Data

- Item 32 Date of Birth
Item 38 Relationship to Head-of-Household
Item 48 Work Participation Status

Section One - Adult Work Participation Activities

- Items 49 - 61 Work Participation Activities

Section Three - Active Cases

- Item 8 Total Number of Families

- b. Form ACF 209, *SSP-MOE Data Report (OMB Control No. 0970-0199)* - This report is submitted quarterly beginning with the first quarter of FY 2000. A State may postpone the due date for submittal of the data until September 30, 2000, if it demonstrates that its failure to submit the data timely was due to Year 2000 compliance efforts (45 CFR section 265.3(d) and Appendices E, F, and G).

Key Line Items - The following line items contain critical information.

Section One - Family-Level Data

Item 9 Type of Family for Work Participation
Item 15 Receives Subsidized Child Care

Section One - Person-Level Data

Item 28 Date of Birth
Item 34 Relationship to Head-of-Household
Item 41 Work Participation Status

Section One - Adult Work Participation Activities
Items 42 - 54 Work Participation Activities

Section Three - Active Cases

Item 3 Total Number of SSP-MOE Families

3. Special Reporting

- a. ACF-204, *Annual Report including the Annual Report on State Maintenance-of-Effort Programs (OMB No. 0970-0199)* - Each State must file an annual report containing information on the TANF program and the State's MOE program(s) for that year, including strategies to implement the Family Violence Option, State diversion programs, and other program characteristics. Each State must complete the ACF-204 for each program for which the State has claimed basic MOE expenditures for the fiscal year. States may submit this report as a free-standing report or as an addendum to the fourth quarter TANF Data Report.

Key Line Items - The following line items contain critical information.

1. Program Name
2. Description of Major Program Activities
3. Program Purpose(s)
4. Program Type
7. Total State MOE Expenditures
8. Number of Families Served with MOE Funds
9. Eligibility Criteria
10. Prior Program Authorization
11. Total Program Expenditures in FY 1995

N. Special Tests and Provisions

All of the following Special Tests and Provisions apply to State *Federal Only and Commingled Federal/State* funded expenditures. They do not apply to Tribes.

1. Child Support Non-Cooperation

Compliance Requirement - If the State agency responsible for administering the State plan approved under Title IV-D of the Social Security Act determines that an individual

is not cooperating with the State in establishing paternity, or in establishing, modifying or enforcing a support order with respect to a child of the individual, and reports that information to the State agency responsible for TANF, the State TANF agency must (1) deduct an amount equal to not less than 25 percent from the TANF assistance that would otherwise be provided to the family of the individual, and (2) may deny the family any TANF assistance. HHS may penalize a State for up to five percent of the SFAG for failure to substantially comply with this required State child support program (42 USC 608(a)(2) and 609(a)(8); 45 CFR sections 264.30 and 264.31).

Audit Objective - Determine whether, after notification by the State IV-D agency, the TANF agency has taken necessary action to reduce or deny TANF assistance.

Suggested Audit Procedures:

- a. Review the State's TANF policies and operating procedures concerning this requirement.
- b. Test a sample of cases referred by the IV-D agency to the TANF agency to ascertain if benefits were reduced or denied as required.

2. Income Eligibility and Verification System (IEVS)

Compliance Requirement - Each State shall participate in the Income Eligibility and Verification System (IEVS) required by section 1137 of the Social Security Act as amended. Under the State Plan the State is required to coordinate data exchanges with other federally assisted benefit programs, request and use income and benefit information when making eligibility determinations, and adhere to standardized formats and procedures in exchanging information with other programs and agencies. Specifically, the State is required to request and obtain information as follows (42 USC 1320b-7; 45 CFR section 205.55):

1. Wage information from the State Wage Information Collection Agency (SWICA) should be obtained for all applicants at the first opportunity following receipt of the application, and for all recipients on a quarterly basis.
2. Unemployment Compensation (UC) information should be obtained for all applicants at the first opportunity, and in each of the first three months in which the individual is receiving aid. This information should also be obtained in each of the first three months following any recipient-reported loss of employment. If an individual is found to be receiving UC, the information should be requested until benefits are exhausted.
3. All available information from the Social Security Administration for all applicants at the first opportunity (See *Federal Tax Return Information* below).
4. Information from the Immigration and Naturalization Service and any other information from other agencies in the State or in other States that might provide income or other useful information.
5. Unearned income from the Internal Revenue Service (IRS) (See *Federal Tax Return Information* below).

Federal Tax Return Information - Information from the IRS and some information from Social Security Administration (SSA) is Federal tax return information and subject to use and disclosure restrictions by 26 USC 6103. Individual data received from the SSA's Beneficiary Earnings Exchange Record (BEER), consisting of wage, self-employment, and certain other income information is considered Federal tax return information. However, benefits payments such as Supplemental Security Income (SSI) are SSA data and not Federal tax return information. Under 26 USC 6103, disclosure of Federal tax return information from IEVS is restricted to officers and employees of the receiving agency. Outside (non-agency) personnel (including auditors) are not authorized to access this information either directly or by disclosure from receiving agency personnel.

The State is required to review and compare the information obtained from each data exchange against information contained in the case record to determine whether it affects the individual's eligibility or level of assistance, benefits or services under the TANF program, with the following exceptions:

1. The State is permitted to exclude categories of information items from follow-up if it has received approval from ACF after having demonstrated that follow-up is not cost effective.
2. The State is permitted, with ACF approval, to exclude information items from certain data sources without written justification if it followed up previously through another source of information. However, information from these data sources that is not duplicative and provides new leads may not be excluded without written justification.

The State shall verify that the information is accurate and applicable to the case circumstances either through the applicant or recipient, or through a third party, if such determination is appropriate based on agency experience or is required before taking adverse action based on information from a Federal computer matching program subject to the Computer Matching and Privacy Protection Act (45 CFR section 205.56).

For applicants, if the information is received during the application process, the State must use the information, to the extent possible, to determine eligibility. For recipients or individuals for whom a decision could not be made prior to authorization of benefits, the State must initiate a notice of case action or an entry in the case record that no case action is necessary within 45 days of its receipt of the information. Under certain circumstances, action may be delayed beyond 45 days for no more than 20 percent of the information items targeted for follow-up (45 CFR section 205.56).

HHS may penalize a State for up to two percent of the SFAG for failure to participate in IEVS (42 USC 609(a)(4) and 1320b-7; 45 CFR sections 264.10 and 264.11).

Audit Objective - Determine whether the State has established and implemented the required IEVS system for data matching, and verification and use of such data. (This audit objective does not include Federal tax return information as discussed in the compliance requirements.)

Suggested Audit Procedures

- a. Review State operating manuals and other instructions to gain an understanding of the State's implementation of the IEVS system.
- b. Test a sample of TANF cases subject to IEVS to ascertain if the State:
 - (1) Used the IEVS to determine eligibility in accordance with the State Plan.
 - (2) Requested and obtained the data from the State Wage Information Collection Agency, the State unemployment agency, the Social Security Administration (excluding Federal tax return information as discussed in the compliance requirements), the Immigration and Naturalization Service, and other agencies, as appropriate, and performed the required data matching.
 - (3) Properly considered the information obtained from the data matching in determining eligibility and the amount of TANF benefits.

3. Penalty for Refusal to Work

Compliance Requirement - State agency must reduce or terminate the assistance payable to the family for refusal to work subject to any good cause or other exemptions established by the State. HHS may penalize the State by an amount not less than one percent and not more than five percent of the SFAG for violation of this provision (42 USC 609(a)(14); 45 CFR sections 261.14, 261.16, and 261.54).

Audit Objective - Determine whether the State agency is reducing or terminating the assistance grant of those individuals who refuse to engage in work and are not subject to good cause or other exceptions established by the State.

Suggested Audit Procedures

- a. Review the State's TANF policies and operating procedures concerning this requirement.
- b. Test a sample of TANF cases where the individual is not working, and ascertain if benefits were reduced or denied to individuals who are not exempt under State rules or do not meet State good cause criteria.

4. Adult Custodial Parent of Child under Six When Child Care Not Available

Compliance Requirement - If an individual is an adult single custodial parent caring for a child under the age of six, the State may not reduce or terminate assistance for the individual's refusal to engage in required work if the individual demonstrates to the State an inability to obtain needed child care based upon the following reasons: (a) unavailability of appropriate child care within a reasonable distance from the individual's

home or work site; (b) unavailability or unsuitability of informal child care by a relative or under other arrangements; and (c) unavailability of appropriate and affordable formal child care arrangements. The determination of inability to find child care is made by the State. HHS may penalize a State for up to five percent of the SFAG for violation of this provision (42 USC 607(e)(2) and 609(a)(11); 45 CFR sections 261.15, 261.56, and 261.57).

Audit Objective - Determine whether the State has improperly reduced or terminated assistance to adult single custodial parents who refused to work because of inability to obtain child care for a child under the age of six.

Suggested Audit Procedures

- a. Gain an understanding of the criteria established by the State to determine benefits for an adult single custodial parent who refused to work because of inability to obtain child care for a child who is under the age of six.
- b. Select a sample of adult single custodial parents caring for a child who is under six years of age whose benefits have been reduced or terminated.
- c. Ascertain if the benefits were improperly reduced or terminated because of inability to obtain child care.

IV. OTHER INFORMATION

Transfers into TANF

As described in Part 4 of this Supplement, Social Services Block Grant (SSBG) program (CFDA 93.667), "III.A. Activities Allowed or Unallowed," a State may transfer up to 10 percent of its annual allotment under SSBG to this and six other block grant programs for support of health services, health promotion and disease prevention activities, low-income home energy assistance, or any combination of these activities.

Amounts transferred into this program are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards (SEFA), the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

Transfers out of TANF

As described in "III.A.1 Activities Allowed or Unallowed," funds may be transferred out of TANF into Social Services Block Grant (Title XX) (CFDA 93.667) and the Child Care and Development Block Grant (CFDA 93.575). These transfers are reflected on the quarterly *Temporary Assistance for Needy Families (TANF) ACF-196 Financial Report*. The amounts transferred out of TANF are subject to the requirements of the program into which they are transferred and should not be included in the audit universe and total expenditures of TANF

when determining Type A programs. On the SEFA, the amount transferred out should not be shown as TANF expenditures but should be shown as expenditures for the program into which they are transferred.

State MOE Expended by Tribes

A State may provide Tribe State-donated MOE funds which are expended by the Tribe. For the Tribe, State-donated MOE are not Federal awards expended, shall not be considered in determining Type A programs, and shall not be shown as expenditures on the Schedule of Expenditures of Federal Awards. However, State-donated MOE funds expended by a Tribe shall be included by the auditor of the State when testing "III.G.2.1 Level of Effort."

Under the Commingled Federal/State-donated MOE option, Tribes may commingle their State-donated MOE funds with Federal grant funds. Because of the commingling, the audit of the Tribe will include testing of the State-donated MOE and the auditor of the State should consider relying on this testing in accordance with auditing standards and OMB Circular A-133. However, the State-donated MOE is not Federal awards expended by the Tribe.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.563 CHILD SUPPORT ENFORCEMENT****I. PROGRAM OBJECTIVES**

The objectives of the Child Support Enforcement program are to: (1) enforce support obligations owed by non-custodial parents, (2) locate absent parents, (3) establish paternity, and (4) obtain child and spousal support.

II. PROGRAM PROCEDURES**Administration and Services**

The Child Support Enforcement program is administered at the Federal level by the Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Funding is provided to the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam, based on a State plan and amendments, as required by changes in statutes, rules, regulations, interpretations, and court decisions, submitted to and approved by the cognizant ACF Regional Administrator.

This program is an open-ended entitlement program that allows the State to be funded at a specified percentage, Federal financial participation (FFP), for eligible program costs.

State child support agencies are required to conduct self-reviews of their programs. The first round of self-assessments is required to be completed by March 31, 1999 (42 USC 654.15).

Source of Governing Requirements

The Child Support Enforcement program is authorized under Title IV-D of the Social Security Act, as amended, and is codified at 42 USC 651 through 669. Implementing program regulations are published at 45 CFR parts 301 through 307. In addition, with regard to eligibility and other provisions, this program is closely related to programs authorized under other titles of the Social Security Act, including the Temporary Assistance to Needy Families (TANF) program (CFDA 93.558), the Medicaid program (CFDA 93.778), and the Foster Care (Title IV-E) program (CFDA 93.658).

As an HHS entitlement program, the Child Support Enforcement program is subject to 45 CFR part 74 (in lieu of the HHS implementation of the A-102 Common Rule), as specified in 45 CFR section 74.1(a)(3), and to Office of Management and Budget Circular A-87 (as implemented in "Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government," HHS Publication ASMB C-10, available on the Internet at <http://www.hhs.gov/progorg/grantsnet/index2.htm>). This program is also subject to 45 CFR part 95.

States are required to adopt and adhere to their own statutes and regulations for program implementation, consistent with the requirements of Title IV-D and the approved State plan.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look first to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Activities Allowed

Consistent with the approved Title IV-D plan, allowable activities include the following. A more complete listing of allowable types of activities, with examples, as appropriate, is included at 45 CFR sections 304.20 through 304.22.

- a. Necessary expenditures for support enforcement services and activities provided to individuals from whom an assignment of support rights (as defined in 45 CFR section 301.1) is obtained (45 CFR sections 304.20, 304.21, and 304.22).
- b. Parent locator services for eligible individuals (45 CFR sections 304.20(a)(2), 304.20(b) and, 302.35(c)).
- c. Paternity and support services for eligible individuals (45 CFR section 304.20(a)(3)).
- d. Administration of the Child Support Enforcement program, including establishment and administration of the State plan; establishment of agreements with other State and local agencies and private providers; purchase of equipment; and development of a cost allocation system and other systems necessary for fiscal and program accountability (45 CFR sections 304.20(b)(1) and 304.24).
- e. The costs of cooperative arrangements with appropriate courts and law enforcement officials in accordance with the requirements of 45 CFR section 302.34, including associated administration and short-term training of staff (45 CFR section 304.21(a)).

2. Activities Unallowed

- a. The following costs and activities are unallowable pursuant to 45 CFR section 304.23:
 - (1) Activities related to administering other titles of the Social Security Act.
 - (2) Construction and major renovations.

- (3) Education and training programs other than those for Title IV-D agency staff or as described in 45 CFR section 304.20(b)(2)(viii).
 - (4) Any expenditures which have been reimbursed by fees collected.
 - (5) Any costs of caseworkers (45 CFR section 303.20(e)).
 - (6) Medical support enforcement activities performed under cooperative arrangements/agreements (45 CFR sections 303.30 and 303.31).
 - (7) Any expenditures related to carrying out an agreement under 45 CFR section 303.15.
 - (8) Any expenditures for jailing of parents in child support enforcement cases.
 - (9) Costs of counsel for indigent defendants in IV-D actions.
 - (10) Costs of guardians *ad litem* in IV-D actions.
- b. The following costs associated with cooperative arrangements with courts and law enforcement officials are unallowable: service of process and court filing fees unless the court or law enforcement agency would normally be required to pay the costs of such fees; costs of compensation (salary and fringe benefits) of judges; costs of training and travel related to the judicial determination process incurred by judges; office-related costs, such as space, equipment, furnishings and supplies incurred by judges; compensation (salary and fringe benefits), travel and training, and office-related costs incurred by administrative and support staffs of judges; and costs of cooperative agreements that do not meet the requirements of 45 CFR section 303.107 (45 CFR section 304.21(b)).

E. Eligibility

1. Eligibility for Individuals

Eligible recipients are: (1) individuals applying for or receiving TANF benefits for whom an assignment of child support rights has been made to the State; (2) non-TANF Medicaid recipients; (3) former Aid to Families with Dependent Children/TANF, Title IV-E, or Medicaid recipients who continue to receive child support enforcement services without filing an application; and (4) individuals needing such services who have applied to a State child support enforcement agency (42 USC 608(a)(3); 45 CFR sections 302.32(a) and 302.33(a)).

2. Eligibility for Groups of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable**F. Equipment and Real Property Management**

Equipment that is capitalized or depreciated or is claimed in the period acquired and charged to more than one program is subject to 45 CFR section 95.707(b) in lieu of the requirements of the A-102 Common Rule (and the HHS implementation at 45 CFR part 74) (45 CFR section 95.707(b)).

G. Matching, Level of Effort, Earmarking**1. Matching**

- a. For program costs *other than* laboratory costs related to determining paternity, the Federal share of program costs, including those related to the planning, design, development, installation and enhancement of the Statewide computerized support enforcement system is 66 percent (42 USC 655(a)(2)(C); 45 CFR sections 304.20(c) and 304.30).
- b. The Federal share of the costs of computerized support enforcement systems was 90 percent through Federal Fiscal Year 1997 which includes subsequent costs under an approved Advanced Planning Document (42 USC 654(24); 45 CFR section 307.30).
- c. The Federal share of laboratory costs for determining paternity is 90 percent (42 USC 655(a)(1)(C); 45 CFR sections 304.20(d) and 304.30).

2. Level of Effort - Not Applicable**3. Earmarking - Not Applicable****H. Period of Availability of Federal Funds**

This program operates on a cash accounting basis and each year's funding and accounting is discrete; i.e., there is no carry-forward of unobligated funds. To be eligible for Federal funding, claims must be submitted to ACF within two years after the calendar quarter in which the State made the expenditure. This limitation does not apply to any claim for an adjustment to prior year costs or resulting from a court-ordered retroactive adjustment (45 CFR sections 95.7, 95.13, and 95.19).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable

- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS-272 series of reports.
- e. OCSE 34A, *Child Support Enforcement Program Quarterly Report of Collections (OMB No. 0970-0181)*.
- f. OCSE 396A, *Child Support Enforcement Program Quarterly Report of Expenditures and Estimates (OMB No. 0970-0181)*.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Establishment of Paternity and Support Obligations

Compliance Requirement - The State IV-D agency must attempt to establish paternity and a support obligation for children born out of wedlock. The State IV-D agency must establish a support obligation when paternity is not an issue. These services must be provided for any child in cases referred to the IV-D agency or to individuals applying for services under 45 CFR section 302.33 for whom paternity or a support obligation had not been established (45 CFR sections 303.4 and 303.5). These services must be provided within the time frames specified in 45 CFR sections 303.3(b)(3) and (b)(5), 303.3(c) and, 303.4(d).

Audit Objective - Determine whether the State IV-D agency attempted to establish, or established, paternity and a support obligation within the required time frames.

Suggested Audit Procedures

- a. Review the agency's procedures for tracking case referrals for the provision of paternity and support obligation services and the type of documentation maintained that these services were provided or attempted.
- b. Test a sample of cases referred to the agency during the audit period to ascertain if:
 - (1) For cases involving a child born out of wedlock, the agency established or attempted to establish paternity.

- (2) For all cases:
 - (a) The agency established or attempted to establish support obligation.
 - (b) Paternity and support obligation services were provided within the required time frame.

2. Enforcement of Support Obligations

Compliance Requirement - For all cases referred to the IV-D agency or applying for services under 45 CFR section 302.33 in which an obligation to support and the amount of the obligation has been established, the agency must maintain a system for (1) monitoring compliance with the support obligation; (2) identifying on the date the parent fails to make payments in an amount equal to support payable for one month, or an earlier date in accordance with State law, those cases in which there is a failure to comply with the support obligation; and (3) enforcing the obligation. To enforce the obligation the agency must initiate income withholding, if required by and in accordance with 45 CFR section 303.100, and initiate any other enforcement action, unless service of process is necessary, within 30 calendar days of identification of the delinquency or other support-related noncompliance, or location of the absent parent, whichever occurs later. If service of process is necessary, service must be completed and enforcement action taken within 60 calendar days of identification of the delinquency or other noncompliance, or the location of the absent parent whichever occurs later. If service of process is unsuccessful, unsuccessful attempts must be documented and meet the State's guidelines defining diligent efforts. If enforcement attempts are unsuccessful, the agency should determine when it would be appropriate to take an enforcement action in the future and take it at that time (45 CFR section 303.6). Optional enforcement techniques available for use by the State's are found at 45 CFR sections 303.71, 303.73, and 303.104.

Audit Objectives - Determine whether the State IV-D agency monitored and, when necessary, enforced cases with support obligations within required time frames.

Suggested Audit Procedures

- a. Review the agency's procedures for tracking case referrals and identifying those cases where an obligation to support has been ordered and the amount of the support obligation has been established.
- b. Test a sample of cases where an obligation to support had been ordered to ascertain that the agency monitored such cases, and identified those cases requiring enforcement within the required time frame.
- c. For selected cases identified as requiring enforcement, verify that enforcement action was initiated within the required time frame. Ascertain if a collection resulting from an enforcement action was received. If so, no further audit procedures are necessary. If a collection was not received:

- (1) Ascertain if use of income withholding was appropriate. If so, verify that it was initiated within required time frame.
 - (2) If income withholding was not appropriate and/or successful, ascertain if the agency scheduled and took another enforcement action.
- d. If a service of process was necessary, but unsuccessful, verify that unsuccessful attempts were documented and met the diligent effort standard under the State's diligent effort definition.

3. Securing and Enforcing Medical Support Obligations

Compliance Requirement - The State IV-D agency must attempt to secure medical support information, and establish and enforce medical support obligations for all individuals eligible for services under 45 CFR section 302.33. Specifically, the State IV-D agency must determine whether the custodial parent and child have satisfactory health insurance other than Medicaid. If not, the agency must petition the court or administrative authority to include medical support in the form of health insurance coverage in all new or modified orders for support. The agency is also required to establish written criteria to identify cases not included above, where there is a high potential for obtaining medical support based on: (1) available evidence that health insurance may be available to the absent parent at reasonable cost, and (2) facts (as defined by the State) which are sufficient to warrant modification of an existing support order to include health insurance coverage for a dependent child(ren). For cases meeting the established criteria, the agency shall petition the court or administrative authority to modify support orders to include medical support in the form of health insurance coverage (45 CFR sections 303.31(b)(1)-(4)).

For non-TANF cases, the agency shall petition for medical support when the eligible individual is a Medicaid recipient or with consent of the individual if not a Medicaid recipient (45 CFR section 303.31(c)).

In cases where medical support is ordered, the agency is required to verify that it was obtained. If it was not obtained, the agency should take steps to enforce the health insurance coverage required by the support order, unless it determines that health insurance was not available to the absent parent at reasonable cost (45 CFR section 303.31(b)(7)).

The agency shall inform the Medicaid agency when a new or modified order for child support includes medical support and shall provide information to the custodial parent concerning the health insurance policy secured under any order (45 CFR sections 303.31(b)(5) and (6)).

Audit Objective - Determine whether the State IV-D agency petitioned for and secured or pursued enforcement of medical support in the form of health insurance as part of support orders and informed the Medicaid agency and custodial parent as required.

Suggested Audit Procedures

- a. Test a sample of cases determined eligible during the audit period for services under 45 CFR section 302.33 to ascertain if the agency determined whether the custodial parent had satisfactory health insurance other than Medicaid.
- b. For those selected cases where the custodial parent and child do not have satisfactory health insurance other than Medicaid, verify that the agency petitioned the court or administrative authority for health insurance coverage when required.
- c. For selected cases where medical support was ordered, ascertain that the agency verified that medical support was obtained by the absent parent. If medical support was not obtained by the absent parent, ascertain if the agency either made a determination that health insurance was not available at a reasonable cost or took action to enforce and obtain the medical support.
- d. For selected cases where the absent parent had health insurance or when health insurance was obtained by the agency, ascertain if there is documentation that the Medicaid agency and the custodial parent were informed.

4. Provision of Child Support Services for Interstate Cases

Compliance Requirement - The State IV-D agency must provide the appropriate child support services needed for interstate cases (cases in which the child and custodial parent live in one State and the responsible relative lives in another State), establish an interstate central registry responsible for receiving, distributing and responding to inquiries on all incoming interstate IV-D cases, and meet required time frames pertaining to provision of interstate services. The case requiring action may be an initiating interstate case (a case sent to another State to take action on the initiating State's behalf) or a responding interstate case (a request by another State to provide child support services or information only). Specific time frame requirements for responding and initiating interstate cases are at 45 CFR sections 303.7(a) and 303.7(b)(2), (4), (5) and (6), respectively (45 CFR sections 302.36 and 303.7).

Audit Objective - Determine whether the State IV-D agency provided required child support services to interstate cases within the required time frames.

Suggested Audit Procedures

- a. Review the agency's interstate central registry and ascertain the procedures for receiving, distributing, and responding to all incoming interstate claim cases.
- b. Test a sample of initiating interstate cases to verify that required information was provided to the responding State within required time frames.

- c. Test a sample of responding interstate cases to verify that required child support enforcement services were provided within the time frames for providing information.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.566 REFUGEE AND ENTRANT ASSISTANCE - STATE ADMINISTERED PROGRAMS****I. PROGRAM OBJECTIVES**

The objective of the Refugee and Entrant Assistance Program is to provide States with funds to assist refugees and Cuban/Haitian entrants in attaining economic and social self-sufficiency after their initial placement in U.S. communities. (The term refugee is used to mean an individual who meets the immigration status requirements under 45 CFR 400.43.)

II. PROGRAM PROCEDURES**Administration and Services**

The Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), administers the Refugee and Entrant Assistance Program on behalf of the Federal Government. ORR provides funds to States through two grant programs: (a) Cash/Medical/Administration (CMA) and (b) Refugee Social Services (RSS).

CMA Grants

CMA grants are made to States upon submittal of an approved State plan and Annual State estimate. CMA grants reimburse States for the costs of providing:

1. Refugee Cash Assistance (RCA) -- monthly cash benefits for refugees who do not meet the eligibility requirements of the Temporary Assistance to Needy Families (TANF) or Supplemental Security Income (SSI) programs;
2. Refugee Medical Assistance (RMA) -- medical assistance to refugees who do not meet all eligibility requirements for Medicaid and the State Children's Health Insurance Program (SCHIP) and medical screening to all refugees if done within the refugees' first 90 days upon arrival to the U.S.;
3. Refugee Unaccompanied Minor (RUM) Assistance -- Child welfare services and foster care to unaccompanied refugee minors (until age 18 or higher age as the State's Title IV-B plan prescribes);
4. Administrative costs associated with providing RCA, RMA, and RUM, and costs incurred for the overall management of the State's refugee program.

Refugee Social Service Grants

Refugee Social Services grants are made to States upon submittal of an approved State plan and an Annual Services Plan. RSS grants are allocated to States by formula according to each State's percentage of the national refugee and entrant population for the most recent three years. States are required to use these funds to help refugees become economically self-sufficient as quickly as possible, primarily through the provision of employment services.

A State may administer the program as a publicly State-administered program, or may form a public/private partnership by engaging non-profit organizations to deliver program services and benefits. A State administered program must follow the TANF rules on financial eligibility and payment levels unless the State receives an approved waiver under 45 CFR section 400.300 to continue administering RCA according to the rules of the former Aid to Families With Dependent Children (AFDC) Program. Subject to certain limitations, a public/private program may operate according to its own rules.

Source of Governing Requirements

The Refugee and Entrant Assistance Program is governed under the following authority: The Refugee Act of 1980 (Pub. L. No. 96-212); Refugee Education Assistance Act of 1980 (Pub. L. No. 96-422); Refugee Assistance Amendments of 1982 (Pub. L. No. 97-363); and Refugee Assistance Extension Act of 1986 (Pub. L. No. 99-605). These laws are codified at 8 USC 1522 Note. Program regulations are at 45 CFR part 400.

The Refugee and Entrant Assistance Program is subject to 45 CFR part 74 (in lieu of the HHS implementation of the A-102 Common Rule), as specified in 45 CFR section 74.1(a)(3), and to OMB Circular A-87 (as implemented in *Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost Rates for Agreements With the Federal Government*, HHS Publication ASMB C-10, available on the Internet at www.hhs.gov/progorg/grantsnet/index2.htm). This program is also subject to administrative regulations at 45 CFR part 95, subparts E (Cost Allocation Plans) and F (Automatic Data Processing Equipment and Services—Conditions for Federal Financial Participation (FFP)).

Availability of Program Information

Additional information is available on the ORR web site at www.acf.dhhs.gov/programs/orr.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed Or Unallowed

Program funds are to be used to pay for:

1. Refugee Cash Assistance (45 CFR 400.53) (See III.E.1 Eligibility for Individuals).
2. Refugee Medical Assistance (45 CFR 400.100) (See III.E.1 Eligibility for Individuals).
3. Refugee Unaccompanied Minor Assistance (45 CFR 400.116) (See III.E.1 Eligibility for Individuals).
4. Refugee Medical Screening

A State may charge refugee medical screening costs to RMA upon submission of a medical screening plan which ORR approves in writing. All refugee medical screenings done within 90 days of the refugees' arrival in the U.S. may be charged to RMA. States may charge to RMA the cost of medical screenings done later than 90 days after the refugees' arrival only if the refugees had been determined ineligible for Medicaid or SCHIP under 45 CFR 400.94 and 400.100 (45 CFR section 400.107).

5. Program Administration

A State may claim against its CMA grant the reasonable and necessary identifiable administrative costs:

- a. Associated with providing RCA, RMA, and assistance and services to unaccompanied refugee minors (45 CFR section 400.207).
- b. Incurred by the local resettlement agencies for providing cash assistance under the public/private RCA program (45 CFR section 400.13(e)).
- c. Incurred for the overall management of the State's refugee program. Such costs may include: development of the State Plan, overall program coordination, and salary and the travel costs of the State Refugee Coordinator (45 section CFR 400.13(c)).

6. Employability Services

A State may provide the following employability services:

- a. Employment services, including development of a family self-sufficiency plan and individual employment plan, job development, job search, and job placement (45 CFR section 400.154(a));

- b. Aptitude and skills testing, employability assessment (45 CFR section 400.154(b));
 - c. On-the job training at the employment site (45 CFR section 400.154(c));
 - d. English language training with emphasis on job-related language skills (45 CFR section 400.154(d));
 - e. Vocational training when part of an employability plan (45 CFR section 400.154(e));
 - f. Skills recertification (45 CFR section 400.154(f));
 - g. Child care when necessary for job retention/acceptance or participation in an employability service (45 CFR section 400.154(g));
 - h. Transportation when necessary for job retention/acceptance or participation in an employability service (45 CFR section 400.154(h));
 - i. Translation and interpreter services when necessary for job retention/acceptance or participation in an employability service (45 CFR section 400.154(i));
 - j. Case management services directed toward a refugee's attainment of employment as soon as possible after arrival in the U.S. (45 CFR section 400.154(j)); and
 - k. Assistance in obtaining employment authorization documents (45 CFR section 400.154(j)).
7. A State may provide non-employability social services, which may include:
- a. Information and referral services (45 CFR section 400.155(a));
 - b. Outreach services designed to familiarize refugees with available services and facilitate access to them (45 CFR section 400.155(b));
 - c. Social adjustment services including emergency services, health-related services, and home management services (45 CFR section 400.155(c));
 - d. Child care, transportation, translation and interpreter services, and case management services which are not directly related to employment or an employability service, when necessary for purposes other than employment or participation in employability services (45 CFR sections 400.155d through 155g);

- e. Any other service approved by the ORR Director which is aimed at helping the refugee attain economic self-sufficiency, family stability, or community integration (45 CFR section 400.155(h)); and
- f. Citizenship and naturalization preparation services (45 CFR section 400.155(i)).

B. Allowable Costs/Costs Principles

The following costs may be charged to the State's CMA grant: (1) certain administrative costs incurred for the overall management of the State's refugee program (such as development of the State plan, salary and travel costs of the State Refugee Coordinator, etc.); and (2) costs incurred by local resettlement agencies to provide cash assistance under public/private RCA programs. All other costs must be allocated among the State's CMA grant, its RSS grant, and any other Refugee Resettlement Program grants it may have received. However, no portion of the cost of case management services (as defined at 7 CFR section 400.2) may be allocated to the State's CMA grant; and administrative costs of managing the services component of the RCA program must be charged to the RSS grant (45 CFR 400.13).

E. Eligibility

1. Eligibility for Individuals

a. General Eligibility

- (1) Clients must have either refugee, asylee, entrant, or Amerasian documented status (45 CFR section 400.43). Those meeting this status will be collectively referred to as refugees.
- (2) A client's eligibility period generally begins on the date he/she arrived in the U.S. (45 CFR sections 400.203(a) and 400.204(a)). On June 15, 2000, however, HHS adopted a policy of setting the eligibility period for asylees (but not refugees) from the date the person receives a final grant of asylum. Additional information on this matter is available on the ORR web site at www.acf.dhhs.gov/programs/orr (See State Letter 00-12 (June 15, 2000)).

b. Refugee Cash Assistance

(1) Eligibility Criteria

Eligibility for RCA is limited to newly arrived refugees who meet all the following criteria:

- (a) They have resided in the U.S. less than the RCA eligibility period (currently 8 months) determined by the ORR Director in accordance with 45 CFR section 400.211 (45 CFR section 400.53).
- (b) They have been determined ineligible for other federally funded cash assistance programs, such as the following programs authorized by the Social Security Act: TANF, SSI, Old Age Assistance (OAA)(Title I), Aid to the Blind (AB)(Title X), Aid to the Permanently and Totally Disabled (APTD)(Title XIV), and Aid to the Aged, Blind, and Disabled (AABD)(Title XVI)(45 CFR sections 400. 51 and 400.53).
- (c) They meet the financial eligibility requirements of the applicable type of RCA program: AFDC-type (45 CFR section 400.45), public/private (45 CFR section 400.59), or State-administered (45 CFR section 400.66). In all three types, the administering agency may not treat the following as income or resources available to the applicant: resources remaining in the applicant's country of origin, income earned by the applicant's sponsor, or cash assistance the applicant may have received under reception and placement programs administered by the Department of State or Justice (45 CFR sections 400.45(f)(2), 400.59(b) through (d), and 400.66(b) through (d)).
- (d) They are not full-time students in institutions of higher education (45 CFR section 400.53).
- (e) If they are mandatory work registrants, they have not, without good cause, failed or refused to meet the work requirements of 45 CFR section 400.75(a), or voluntarily quit a job or refused an offer of appropriate employment within 30 consecutive calendar days immediately prior to the application for assistance. The payment of RCA assistance to an otherwise eligible client must be terminated if the client fails to meet this requirement (45 CFR sections 400.77 and 400.82(a)).

(2) Benefit Level

Benefit payments in a State-administered AFDC-type RCA program must be based on the AFDC rate (45 CFR section 400.45(f)(2)). Benefit payments in a State-administered TANF-type RCA program must be based on the TANF rate (45 CFR section 400.66(a)). Benefit payments in a public/private RCA

program may neither exceed the rate described in 45 CFR section 400.60(a), nor be less than the State's TANF payment rate (45 CFR section 400.60(b)).

c. Refugee Medical Assistance

(1) Eligibility Criteria

Eligibility for RMA is limited to newly arrived refugees who meet one of the following sets of conditions:

- (a) They are not eligible for Medicaid or SCHIP but currently receive RCA (45 CFR section 400.100(d)); or
- (b) They meet all the following criteria:
 - (i) They have met the same time eligibility requirement stated above for RCA (45 CFR section 400.100(b)).
 - (ii) They are determined ineligible for Medicaid or SCHIP (45 CFR section 400.100(a)(1)).
 - (iii) They meet one of the following financial eligibility requirements:
 - (A) In a State with a Medicaid medically needy program, they meet the State's Medicaid medically needy financial eligibility standards or a financial eligibility standard established at 200% of the national poverty level (45 CFR section 400.101(a)).
 - (B) In a State without a Medicaid medically needy program, they meet the State's AFDC payment standards and methodologies in effect as of July 16, 1996, or a financial eligibility standard established at 200% of the national poverty level (45 CFR section 400.101(b)).
 - (C) They did not meet either of these standards, but spent their resources down to the applicable standard using an appropriate method for deducting incurred medical expenses. States must allow applicants for RMA to do this (45 CFR 400.103).

- (c) They are not full-time students in institutions of higher education, unless the State has approved their enrollment as part of the refugee's employability plan under 45 CFR section 400.79 or a plan for an unaccompanied minor in accordance with 45 section CFR 400.100(a).
- (2) Earnings from employment do not affect refugees' eligibility for RMA. They remain eligible for RMA through the remainder of the time eligibility period after receiving earnings from employment. Refugees who become ineligible for Medicaid due to employment earnings and have resided in the U.S. less than the time eligibility period will become eligible for RMA for the remainder of the time eligibility period (45 CFR section 400.104).

States may not require that a refugee actually receive or apply for RCA as a condition of eligibility for RMA (45 CFR section 400.100(d)).

(3) Benefit Levels

In providing medical assistance services to eligible refugees, a State must provide at least the same services in the same manner and to the same extent as under the State's Medicaid program (45 CFR section 400.105). A State may provide additional services beyond the scope of the State's Medicaid program to eligible refugees if the State provides these services through public facilities to its indigent residents (45 CFR section 400.106).

d. Refugee Unaccompanied Minor (RUM) Assistance

- (1) A person must meet the definition of an unaccompanied minor listed in 45 CFR section 400.111.
- (2) A RUM remains eligible for assistance until he/she: (1) is reunited with a parent; (2) is united with a nonparental adult to whom legal custody or guardianship has been granted; or (3) has reached the age of 18, or older if the State's Title IV-B plan so prescribes (45 CFR section 400.116).

e. Refugee Social Services

- (1) In providing social services, the State must serve refugees in the following order of priority listed under 45 CFR section 400.147:
 - a. All refugees who have resided in the U.S. less than a year and who apply for services;

- b. Refugees receiving cash assistance;
 - c. Unemployed refugees who are not receiving cash assistance; and
 - d. Employed refugees in need of services to retain employment.
- (2) A State may limit eligibility for services to refugees who are 16 or older who are not full-time students in secondary school, except that such a student may be provided services in order to obtain part-time or temporary (summer) employment while a student or permanent, full-time employment upon completion of schooling (45 CFR section 400.152 (a)).
- (3) Except for citizenship and naturalization services and referral and interpreter services, a State may not provide refugee social services to refugees who have been in the U.S. for more than 60 months (45 CFR section 400.152(b)).

2. Eligibility for Groups of Individuals - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

H. Period of Availability of Federal Funds

1. CMA Funds

A State must obligate its CMA funds awarded for costs attributable to RCA, RMA and administration during the Federal fiscal year (FFY) in which the grant was awarded. Funds awarded for RUM assistance remain available for obligation in the FFY following the FFY in which the grant was awarded. However, all CMA funds, including funds awarded for RUM services, must be expended by the end of the FFY following the FFY in which the grant was awarded (45 CFR 400.210(a)).

2. Social Services Funds

A State must obligate its Social Services funds within one year after the end of the FFY in which the grant was awarded, and must expend these funds within two years after the end of the FFY in which the grant was awarded (45 CFR 400.210(b)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271 - *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS-272 series of reports.

2. Performance Reporting

OFF-6, *Quarterly Performance Report (QPR) (OMB No. 0970-0036)* - A State is required to submit a QPR which contains a narrative and statistical information on program performance for cash assistance, medical assistance, social services, medical screening, and the provision of services to unaccompanied minors.

Key Line Items - The following line items contain critical information.

- a. Schedule B - *Cash and Medical Assistance*
- b. Schedule C - *Services Report*

3. Special Reporting

- a. ORR-11, *State-of-Origin Report (OMB No. 0970-0043)* - A State is required to submit this report to account for refugee in-migration from other States (secondary migrants) during the prior FFY.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.568 LOW-INCOME HOME ENERGY ASSISTANCE****I. PROGRAM OBJECTIVES**

The Low Income Home Energy Assistance Program (LIHEAP) is a block grant program in which States (including territories and Indian tribes) design their own programs, within very broad Federal guidelines. There are four components of LIHEAP: (1) block grants, (2) energy emergency contingency funds, (3) leveraging incentive awards, and (4) the Residential Energy Assistance Challenge Option Program (REACH). The objectives of LIHEAP are to help low-income people meet the costs of home energy, defined as heating and cooling of residences, and to increase their energy self-sufficiency and reduce their vulnerability resulting from energy needs. A primary purpose is meeting immediate home energy needs. The target population is low income households, especially those with the lowest incomes and the highest home energy costs or needs in relation to income, taking into account family size. Additional targets are low income households with members who are especially vulnerable, including the elderly, persons with disabilities, and young children.

II. PROGRAM PROCEDURES**LIHEAP Block Grants**

The Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Community Services, administers the LIHEAP program at the Federal level. LIHEAP block grant funds are distributed by formula to the States, the District of Columbia, and territories. In addition, Federally- or State-recognized Indian tribes (including tribal consortiums and organizations designated by them) have the option to request direct funding from ACF, rather than being served by the State in which they are located. Tribes that are directly funded by HHS receive a share of the funds that would otherwise be allotted to the States in which they are located, based on the number of eligible households in the tribal service area as a percentage of the eligible households in the State, or a larger amount agreed upon in a State/tribe agreement. Over half the States agree to give the tribes in their State a larger amount than required by the statute.

Each grantee is required to submit a plan/application annually in order to receive block grant funding. Grantees must allow for public participation in the development of their annual plan. A separate application is required for those LIHEAP grantees that wish to apply for leveraging incentive awards or a REACH grant.

Energy Emergency Contingency Funds

In addition to appropriations for the LIHEAP block grant program, funds may be awarded to meet the additional home energy assistance needs of States for a natural disaster or other emergency. Contingency funds that are awarded generally must be used under the normal statutory and regulatory requirements that apply to the LIHEAP block grants, unless special conditions are placed upon their use at the time of the award.

Leveraging Incentive Awards

Of the funds appropriated for LIHEAP each year, HHS is required to earmark a portion to reward those LIHEAP grantees that have acquired non-Federal resources to help low income persons meet their home heating and cooling needs, as an incentive to stretch the Federal dollars. This could involve the grantee or private organizations putting some of their own funds into LIHEAP or similar State or private programs, buying fuel at reduced or discount prices through bulk purchases or negotiated agreements, obtaining donations of weatherization materials or fuels, waiving utility fees, or any number of other activities. Awards in one year are based on leveraging activities carried out during the previous year.

Residential Energy Assistance Challenge Option Program

Up to 25 percent of the funds earmarked for leveraging incentive awards each year may be set aside for the REACH to make competitive grants to LIHEAP grantees to help LIHEAP eligible households reduce their energy vulnerability. The purposes of REACH are: (1) to minimize health and safety risks that result from high energy burdens on low-income households; (2) to prevent homelessness as a result of inability to pay energy bills; (3) to increase efficiency of energy usage by low income families; and (4) to target energy assistance to individuals who are most in need. REACH grants are to be administered through community-based organizations. REACH grants are subject to special terms and conditions, which are specified in the grant awards.

Source of Governing Requirements

The LIHEAP program is authorized under Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended (Pub. L. No. 97-35, as amended, also known as OBRA 1981), which is codified at 42 USC 8621-8629. Implementing regulations for this and other block grant programs authorized by OBRA 1981 are published at 45 CFR part 96. Those regulations include general administrative requirements for the covered block grants programs (in lieu of either 45 CFR parts 74 (OMB Circular A-110) or 92 (A-102 Common Rule)). Requirements specific to LIHEAP are in 45 CFR sections 96.80 through 96.89. In addition, grantees are to administer their LIHEAP programs according to the plans which they have submitted to HHS.

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, States are to use the fiscal policies that apply to their own funds in administering LIHEAP. Procedures must be adequate to assure the proper disbursement of and accounting for Federal funds paid to the grantee, including procedures for monitoring the assistance provided (42 USC 8624(b)(10); 45 CFR section 96.30).

Under the block grant philosophy, each State is responsible for designing and implementing its own LIHEAP program, within very broad Federal guidelines. States must administer their LIHEAP programs according to their approved plan and any amendments and in conformance with their own implementing rules and policies.

Availability of Other Program Information

The ACF LIHEAP page on the Internet (<http://www.acf.dhhs.gov/programs/liheap>) provides general information about this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

The following guidelines apply to LIHEAP block grants and leveraging incentive award funds, unless noted otherwise. Energy emergency contingency funds generally are subject to the LIHEAP block grant requirements, but the contingency grant award letter should be reviewed to see if different requirements apply. REACH grants are subject to special rules described in the award.

1. LIHEAP funds may be used to assist eligible households to meet the costs of home energy, i.e., heating or cooling their residences (42 USC 8621(a) and 8624(b)(1)).
2. LIHEAP funds may be used to intervene in energy-related crisis situations, as defined by the grantee (42 USC 8623(c) and 8624(b)(1)).
3. LIHEAP funds may be used to conduct outreach activities (42 USC 8624(b)(1)).
4. Leveraging incentive awards must be used to increase or maintain heating, cooling, energy crisis, and weatherization benefits for low-income persons (45 CFR section 96.87(j)).
5. Leveraging incentive award funds may not be used for planning, developing, or administering the LIHEAP program (45 CFR section 96.87(j)).
6. LIHEAP funds may be used to provide low-cost residential weatherization and other cost-effective energy-related home repair (42 USC 8624(b)(1)).
7. LIHEAP grantees may use some or all of the rules applicable to the Department of Energy's Low Income Weatherization Assistance Program (CFDA 81.042) for their LIHEAP funds spent on weatherization (42 USC 8624(c)(1)(D)).
8. LIHEAP funds may be used to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy

assistance, including needs assessments, counseling, and assistance with energy vendors (42 USC 8624 (b)(16)).

9. LIHEAP funds (other than leveraging incentive award funds) may be used to identify, develop, and demonstrate leveraging programs (45 CFR section 96.87(c)).
10. No LIHEAP funds may be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility (42 USC 8628).

B. Allowable Costs/Cost Principles

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, LIHEAP is exempt from the provisions of OMB cost principles circulars. State cost principles requirements apply to LIHEAP.

E. Eligibility

1. Eligibility for Individuals

Grantees may provide assistance to: (1) households in which one or more individuals are receiving Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps, or certain needs-tested veterans benefits; or (2) households with incomes which do not exceed the greater of 150 percent of the State's established poverty level, or 60 percent of the State median income. Grantees may establish lower income eligibility criteria, but no household may be excluded solely on the basis of income if the household income is less than 110 percent of the State's poverty level. Grantees may give priority to those households with the highest home energy costs or needs in relation to income (42 USC 8624(b)(2)).

2. Eligibility for Groups of Individuals or Area of Service Delivery- Not Applicable

3. Eligibility for Subrecipients

To the extent it is necessary to designate local administrative agencies, the grantee is to give special consideration to local public or private nonprofit agencies (or their successor agencies) which were receiving energy assistance or weatherization funds under the Economic Opportunity Act of 1964 or other laws, provided that the grantee finds that they meet program and fiscal requirements set by the grantee (42 USC 8624(b)(6)).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**

The following limitations apply to LIHEAP block grants and leveraging incentive award funds, as noted. Energy emergency contingency funds generally are subject to the requirements applicable to LIHEAP block grant funds, but the contingency grant award letter should be reviewed to see if different requirements were applied. REACH grants are subject to special rules described in the award.

a. *Planning and Administrative Costs*

- (1) No more than 10 percent of the LIHEAP funds payable to the State for a Federal fiscal year may be used for planning and administrative costs, including both direct and indirect costs. This limitation applies, in the aggregate, to planning and administrative costs at both the State and subrecipient levels (42 USC 8624(b)(9)(A); 45 CFR section 96.88(a)).
- (2) A tribal or territorial grantee may spend up to 20 percent of the first \$20,000 and 10 percent of the amount above \$20,000 for administration and planning (45 CFR section 96.88(b)).
- (3) Leveraging incentive award funds may not be used for planning and administrative costs. However, either in the award year or the following fiscal year, they may be added to the base on which the maximum amount allowed for planning and administration is calculated (45 CFR section 96.87(j)).

b. *Weatherization*

- (1) No more than 15 percent of the greater of the funds allotted or the funds available to the grantee for a Federal fiscal year may be used for low-cost residential weatherization or other energy-related home repairs. The Secretary may grant a waiver, and the grantee may then spend up to 25 percent for residential weatherization or energy-related home repairs (42 USC 8624(k)).
- (2) Leveraging incentive award funds may be used for weatherization without regard to the weatherization maximum in the statute. However, they cannot be added to the base on which the weatherization maximum is calculated (45 CFR section 96.87(j)).

- c. *Energy Need Reduction Services* - No more than five percent of the LIHEAP funds payable to the grantee may be used to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance. Such services may include needs assessments, counseling, and assistance with energy vendors (42 USC 8624(b)(16)).
- d. *Identifying and Developing Leveraging Programs*
 - (1) The greater of 0.08 percent of a State's LIHEAP funds (other than leveraging incentive award funds) or \$35,000 may be spent to identify, develop, and demonstrate leveraging programs, without regard to the limit on planning and administering LIHEAP (42 USC 8626a(c)(2); 45 CFR section 96.87(c)(2)).
 - (2) Indian tribes/tribal organizations and territories may spend up to the greater of two percent or \$100 on such activities (45 CFR section 96.87(c)(1)).

H. Period of Availability of Federal Funds

At least 90 percent of the LIHEAP block grant funds payable to the grantee must be obligated in the fiscal year in which they are appropriated. Up to 10 percent of the funds payable may be held available (or "carried over") for obligation no later than the end of the following fiscal year. Funds not obligated by the end of the following fiscal year must be returned to ACF. There are no limits on the time period for expenditure of funds (42 USC 8626).

Leveraging incentive award funds must be obligated in the year in which they are awarded or the following fiscal year, without regard to the carryover limit. However, they may not be added to the base on which the carryover limit is calculated (45 CFR sections 96.87(j)(1) and (k)). Funds not obligated within these time periods must be returned to ACF (45 CFR section 96.87(k)).

LIHEAP emergency contingency funds are generally subject to the same obligation and expenditure requirements applicable to the LIHEAP block grant funds, but the contingency award letter should be reviewed to see if different requirements were imposed.

L. Reporting

1. Financial Reporting

- a. SF-269A, *Financial Status Report* (short form) - Applicable beginning with Federal fiscal years ending on or after September 30, 2000.
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable

- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *LIHEAP Carryover and Reallotment Report (OMB No. 0970-0106)* - Grantees must submit a report no later than August 1 indicating the amount expected to be carried forward for obligation in the following fiscal year and the planned use of those funds. Funds in excess of the maximum carryover limit are subject to reallotment to other LIHEAP grantees in the following fiscal year, and must also be reported (42 USC 8626).
- b. *Annual Report on Households Assisted by LIHEAP (OMB No. 0970-0060)* - As part of the application for block grant funds each year, a report is required for the preceding fiscal year of (1) the number and income levels of the households assisted for each component (heating, cooling, crisis, and weatherization), (2) the number of households served that contained young children, elderly, or persons with disabilities, and (3) the number and income levels of households applying for assistance. Territories with annual allotments of less than \$200,000 and Indian tribes are required to report only on the number of households served for each component (42 USC 8629; 45 CFR section 96.82).

IV. OTHER INFORMATION

As described in Part 4, Social Services Block Grant (SSBG) program (CFDA 93.667), Subpart III.A. Activities Allowed or Unallowed, a State may transfer up to 10 percent of its annual allotment under SSBG to this and six other block grant programs.

Amounts transferred into this program are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.569 COMMUNITY SERVICES BLOCK GRANT****I. PROGRAM OBJECTIVES**

The objective of the Community Services Block Grant (CSBG) program is to provide assistance to a network of community-based organizations for programs and services to ameliorate the causes and consequences of poverty and to revitalize low-income communities. CSBG can be used to fund programs and other activities that assist low-income individuals and families attain self-sufficiency; provide emergency assistance; support positive youth development; promote civic engagement; and improve the organization infrastructure for planning and coordination among multiple resources that address poverty conditions in the community.

II. PROGRAM PROCEDURES**Administration and Services**

The CSBG program is administered at the Federal level by the Office of Community Services (OCS), Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). CSBG funds are awarded to States, Territories, and Federally and State-recognized Indian tribes and tribal organizations. Funds are distributed in accordance with a pre-established formula after submission of an application to OCS and acceptance of that application as complete in accordance with statutory requirements. In turn, States subgrant the CSBG funds according to statewide formulae to designated community-based non-profit organizations (and, in special circumstances, public organizations) that plan, develop and implement, and evaluate local programs.

Source of Governing Requirements

The CSBG program was reauthorized under the Community Services Block Grant Act of 1998 (Pub. L. No. 105-285), and is codified at 42 USC 9901-9920. The implementing regulations for this and other block grant programs are published at 45 CFR part 96. Those regulations include both specific requirements and general administrative requirements for the covered block grant programs (in lieu of either 45 CFR part 74 (OMB Circular A-110) or 45 CFR part 92 (A-102 Common Rule)). Requirements specific to CSBG are in 45 CFR sections 96.90 through 96.92.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look first to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed1. *Activities Allowed*

- a. Subgrantees may use CSBG funds for any programs, services or other activities related to achieving the broad goals of the CSBG programs, such as reducing poverty, revitalizing low-income communities, and assisting low-income individuals and families. Funds may be used to:
 - (1) Promote economic self-sufficiency, employment, education and literacy, housing and civic participation.
 - (2) Support community youth development programs.
 - (3) Fill gaps in services through information dissemination, referrals, and case management.
 - (4) Provide emergency assistance through grants and loans, and provision of supplies, services and food stuffs.
 - (5) Secure more active involvement of the private sector, faith-based institutions, neighborhood-based organizations, and charitable groups.
 - (6) Plan, coordinate, and develop linkages among public (Federal, States and local), private, and non-profit resources to improve their combined effectiveness in ameliorating poverty (42 USC 9901 and 42 USC 9908(b)).
- b. States may use retained funds to achieve CSBG program goals through activities, including, but not limited to:
 - (1) Training and technical assistance.
 - (2) Statewide coordination and communication among eligible entities.
 - (3) Analysis to better target the distribution of funds to the areas of greatest need.
 - (4) Individual development accounts and other asset-building programs for low-income individuals.
 - (5) Coordinating State-operated programs and services targeted to low-income children and families.
 - (6) State charity tax credits.

- (7) Supporting innovative programs and activities conducted by community-based organizations to address the goals of the program.
- (8) Administrative functions (42 USC 9901 and 9907(b)).

2. *Activities Unallowed*

- a. Funds may not be used to purchase or improve land or to purchase, construct, or permanently improve buildings or facilities, other than low-cost residential weatherization or other energy-related home repairs (this limitation may be waived by ACF) (42 USC 9918(a)).
- b. Funds may not be used to support any partisan or non-partisan political activity or to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election or any voter registration (42 USC 9918(b)).

B. Allowable Costs/Cost Principles

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, the CSBG program is exempt from the provisions of OMB cost principles circulars at the State level. As a block grant, State cost principles requirements apply to CSBG at the State level. However, OMB administrative requirements and cost principles circulars do apply to subgrantees receiving CSBG funds (42 USC 9916(a)(1)(B)).

E. Eligibility

1. Eligibility for Individuals

The official poverty guideline as revised annually by HHS shall be used to determine eligibility. The poverty guidelines are issued each year in the *Federal Register* and on the HHS Website (<http://aspe.os.dhhs.gov/poverty/poverty.htm>). A State may adopt a revised poverty guideline but it may not exceed 125 percent of the HHS-determined poverty guidelines (42 USC 9902(2)).

2. Eligibility of Groups of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

Subgrants may be made to the following entities, based on receipt of a community plan (42 USC 9908(b)(11)):

- a. A private non-profit organization (including migrant farm worker organization) with a pre-existing designation as an "eligible entity"

immediately prior to enactment of the new CSBG Act on October 27, 1999, and with a governance mechanism meeting the tripartite governing board requirement specified in 42 USC 9910(a)).

- b. A subdivision of State government with a pre-existing designation as an "eligible entity" immediately prior to enactment of the new CSBG Act, with a governance mechanism meeting either the "tripartite" board requirements or otherwise assuring decision-making and participation by low-income individuals in the development, planning, implementation, and evaluation of CSBG-funded programs (42 USC 9910(b))
- c. A private non-profit organization or subdivision of State government newly designated by the State after October 27, 1999 as an "eligible entity" to provide services in an unserved area, in accordance with the criteria, requirements, and procedures specified by 42 USC 9909.

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2. Level of Effort - Not Applicable

3. Earmarking

- a. States must use at least 90 percent of the allotted funds for subgrants to eligible entities (42 USC 9907(a)(1)).
- b. State administrative expenses, including monitoring activities, may not exceed the greater of \$55,000 or 5 percent of CSBG funds. Such expenditures must be made from the portion of funds remaining to a State after subgranting at least 90 percent of funds to eligible entities (42 USC 9907(b)(2)).

H. Period of Availability of Federal Funds

CSBG funds granted by the State to subgrantees are available to the subgrantee for obligation during the fiscal year that the grant was made and in the following fiscal year (42 USC 9907(a)(2)).

However, beginning on October 1, 2000, if more than 20 percent of the funds granted by the State to a subgrantee in one fiscal year remain unobligated at the end of that fiscal year, a State may recapture and redistribute those funds. A State must either (1) redistribute the recaptured funds to an eligible entity located within the community served by the original subgrantee, or (2) require the original subgrantee to distribute the funds to a private non-profit organization within that community. Activities undertaken with redistributed funds must conform with the activities allowed under the CSBG Act (42 USC 9907(a)(3)).

M. Subrecipient Monitoring

States must conduct full onsite reviews of each eligible subgrantee once every three years to check conformity with performance goals, administrative standards, financial management rules, and other requirements. States must conduct an onsite review of each newly designated entity immediately after the completion of the first year in which such entity receives CSBG funding. Follow-up reviews, including prompt return visits to eligible entities and their programs, are required for entities that fail to meet the goals, standards, and requirements established by the State (42 USC 9914(a)).

If a State finds a need for corrective action, the State must (1) inform the subgrantee of the deficiency and require correction; (2) offer training and technical assistance and report to OCS on that assistance, or explain why providing such assistance was not appropriate; (3) and receive an improvement plan from the subgrantee within 60 days, and approve (42 USC 9915). If the subgrantee fails to remedy the deficiency, the State may initiate proceedings to terminate the subgrantees eligibility or reduce its funding (42 USC 9908(b)(8) and 42 USC 9915(a)(5)).

IV. OTHER INFORMATION

As described in Part 4, Social Services Block Grant (SSBG) program (CFDA 93.667), Subpart III.A. Activities Allowed or Unallowed, a State may transfer up to 10 percent of its annual allotment under SSBG to CSBG and six other block grant programs for support of health services, health promotion and disease prevention activities, low-income home energy assistance, or any combination of these activities.

Amounts transferred into the CSBG program are subject to the requirements of the CSBG program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.575 CHILD CARE AND DEVELOPMENT BLOCK GRANT**
CFDA 93.596 CHILD CARE MANDATORY AND MATCHING FUNDS OF THE
CHILD CARE AND DEVELOPMENT FUND**I. PROGRAM OBJECTIVES**

The Child Care and Development Fund (CCDF) provides funds to States (including territories and Indian tribes) to increase the availability, affordability, and quality of child care services for low-income families where the parents are working or attending training or educational programs. The CCDF consolidates the Child Care and Development Block Grant and funding formerly provided to States through the child care programs under Title IV-A of the Social Security Act.

II. PROGRAM PROCEDURES

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) repealed the child care programs under Title IV-A of the Social Security Act, i.e., Aid to Families with Dependent Children Child Care, Transitional Child Care and At-Risk Child Care, and required that all Federal child care funds be spent in accordance with the provisions of the amended Child Care and Development Block Grant program. While these Federal child care programs have been consolidated under a single set of eligibility requirements, there are three distinct funding sources. The three sources are the Discretionary Fund (CFDA 93.575), Mandatory Fund (CFDA 93.596), and the Matching Fund (CFDA 93.596). Additionally, under the Temporary Assistance for Needy Families (TANF) program (CFDA 93.558), a State may transfer TANF funds to CCDF and the funds transferred in are treated as Discretionary Funds (42 USC 606(d); 45 CFR section 98.54(a)).

Administration and Services

The Child Care Bureau of the Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS), administers the CCDF. To receive funds a State, territory or Indian Tribe must submit a plan containing specific information and assurances. The plan serves as the application for funding for States and territories and is effective for a two-year period. Tribes, in contrast, must submit a yearly application as well as a tribal plan. A tribe's plan is also effective for two years. Tribes are generally subject to the same program requirements as States and territories, except as specifically noted below.

Following ACF approval of the plan (and application, in the case of tribes), funds are awarded based on statutory/regulatory formulas. State awards are not adjusted by separate direct Federal funding of counterpart tribal programs within the State. As long as statutory and regulatory requirements are met (e.g., that the States, territories and those Tribes receiving grants over \$500,000 offer parents certificates for the purchase of child care services), grantees have broad flexibility in designing programs and offering services. For example, CCDF funds may be used in collaborative efforts with Head Start (CFDA 93.600) programs to provide comprehensive child care and development services for children who are eligible for both programs. In fact, the

coordination and collaboration between Head Start and the CCDF is mandated by sections 640(g)(2)(D) and (E), and 642(c) of the Head Start Act (42 USC 9835(g)(2)(D) and (E); 42 USC 9837(c)) in the provision of full working day, full calendar year comprehensive services (42 USC 9835(a)(5)(v)). In order to implement such collaborative programs which share, for example, space, equipment or materials, grantees may blend several funding streams so that seamless services are provided.

Source of Governing Requirements

The Discretionary Fund (CFDA 93.575) is authorized by the Child Care and Development Block Grant Act of 1990, as amended by Title VI of the PRWORA of 1996 (Pub. L. No. 104-193; 42 USC 9858 - 9858q). The Mandatory and Matching Funds (CFDA 93.596) are authorized under section 418 of Title IV-A of the Social Security Act as amended by PRWORA (42 USC 618). The CCDF (i.e., all three funds) is subject to the implementing regulations at 45 CFR parts 98 and 99.

Transition considerations

Certain of the PRWORA provisions created new or changed requirements that negated or made obsolete some portions of the August 1992 version of 45 CFR parts 98 and 99. To the extent that a State, territory or Tribe adopted such provisions following PRWORA enactment (August 22, 1996), and prior to the publication of the revised regulations for CCDF (July 24, 1998), the language of the statute and, if appropriate, the State's reasonable interpretation of the statutory language applies rather than the requirements of the earlier regulations. For example, PRWORA raised the upper eligibility limit that States may establish for families from 75 percent to 85 percent of State median income, which is a change from the 1992 regulations. Since this statutory change is clear, it should be controlling. In contrast, PRWORA also provides that "activities designed to provide comprehensive consumer education to parents and the public" is an allowable expense, but does not define what those activities might be. The State's reasonable interpretation may be accepted.

Availability of Other Program Information

The HHS Administration for Children and Families, Child Care Bureau Internet page titled "Welcome to the Child Care Bureau" (<http://www.acf.dhhs.gov/programs/ccb/>) provides general information on this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Funds may be used for child care services in the form of certificates, grants or contracts (42 USC 9858c(c)(2)(A)).
2. Funds may be used for activities that improve the quality or availability of child care services, consumer education and parental choice (42 USC 9858e).
3. Funds may be used for any other activity that the State deems appropriate to promoting parental choice, providing comprehensive consumer education information to help parents and the public make informed choices about child care, providing child care to parents trying to achieve independence from public assistance, and implementing the health, safety, licensing and registration standards established in State regulations (42 USC 9858c(c)(3)(B)).
4. No funds may be expended through any grant or contract for child care services for any sectarian purpose or activity, including sectarian worship or instruction (42 USC 9858k(a)).
5. With regard to services to students enrolled in grades 1 through 12, no funds may be used for services provided during the regular school day, for any services for which the students receive academic credit toward graduation, or for any instructional services which supplant or duplicate the academic program of any public or private school (42 USC 9858k(b)).
6. Except for Tribes, no funds can be used for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility (42 USC 9858d(b)).

Tribes may use funds for the construction and major renovation of child care facilities with ACF approval (42 USC 9858m(c)(6); 45 CFR section 98.84).

7. Except for sectarian organizations, funds may be used for the minor remodeling (i.e., renovation and repair) of child care facilities. For sectarian organizations, funds may be used for the renovation or repair of facilities only to the extent that it is necessary to bring the facility into compliance with the health and safety standards required by 42 USC 9858c(c)(2)(F) (42 USC 9858d(b)).

C. Cash Management

Under the Matching Fund's (CFDA 93.596) Maintenance of Effort (MOE) requirement, the drawdown of Federal cash should not exceed the Federally-funded portion of the combination of the Mandatory and Matching Funds (CFDA 93.596), taking into account the State MOE and State matching requirements. For example, the total expenditures for a year, i.e., the sum of: 1) the Mandatory Fund (CFDA 93.596), comprised of Federal funds only, 2) the State MOE requirement, and 3) the entire Matching Fund -- both State and Federal shares -- for a fiscal year is \$100. Of this \$100, the sum of the State MOE

and the State share of the Matching Fund is \$40. For any period, the amount of Federal funds drawn down should not exceed 60 percent of the total expenditures for that period (Department of the Treasury, Financial Management Service CMIA Policy Statement Number 19).

E. Eligibility

1. Eligibility for Individuals

The approved plan provides the specific eligibility requirements selected by each State/territory/tribe. Those requirements must comply with the following Federal requirements for individual eligibility:

- a. Children must be under age 13 (or up to age 19, if incapable of self care or under court supervision), who reside with a family whose income does not exceed 85 percent of State/territorial/tribal median income for a family of the same size, and reside with a parent (or parents) who is working or attending a job-training or education program; or are in need of, or are receiving, protective services (42 USC 9858n(4); 45 CFR section 98.20(a)).
- b. The award of CCDF funds to an Indian tribe shall not affect the eligibility of any Indian child to receive CCDF services in the state or States in which the Tribe is located (45 CFR section 98.80(d)).

2. Eligibility for Groups of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

The matching and MOE requirements apply only to the Matching Fund (CFDA 93.596). The State's matching and MOE expenditures are closely related. For a State to receive the allotted share of the Matching Fund, the State must meet the MOE requirement and obligate the Mandatory Fund by year end (see H. Period of Availability of Funds). The matching and MOE amounts are reported on the CCDF Financial Report (ACF-696) (See L.1. Financial Reporting).

1. Matching

- a. A State is eligible for Federal matching funds (limit specified in 42 USC 618 and 45 CFR section 98.63) only for those allowable State expenditures which exceed the State's MOE requirement, provided all of the Mandatory Funds (CFDA 93.596) allocated to the State are also obligated by the end of the fiscal year (45 CFR section 98.53).

- b. State expenditures will be matched at the Federal Medical Assistance Percentage (FMAP) rate for the applicable fiscal year. This percentage varies by State and is available on the Internet at <http://www.hcfa.gov/medicaid/ofs%2Dffp.htm>. To be eligible an activity must be allowable and be described in the approved State plan (45 CFR section 98.53).
- c. Private or public donated funds may be counted as State expenditures for this purpose subject to the limitations in 45 CFR section 98.53.
- d. No more than 20 percent of State matching claims may be for pre-Kindergarten services. The same expenditure may not be used for both MOE and matching purposes (45 CFR sections 98.53(d) and 98.53(h)).

2.1 Level of Effort - *Maintenance of Effort*

If a State requests Matching Funds (CFDA 93.596), State MOE (non-Federal) funds for child care activities must be expended in the year for which Matching Funds are claimed in an amount that is at least equal to the State's share of expenditures for fiscal year 1994 or 1995 (whichever is greater) under former Sections 402(g) and (i) of the Social Security Act (42 USC 618). Private or public donated funds may be counted as State expenditures for this purpose (45 CFR section 98.53).

No more than 20 percent of the MOE requirement may be met with State expenditures for pre-kindergarten services. The same expenditure may not be used for both MOE and matching purposes (45 CFR sections 98.53(d) and 98.53(h)).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

- a. *Administrative Earmark* - A State/territory may not spend on administrative costs more than five percent of total CCDF awards expended (i.e., the total of CFDA 93.575 and 93.596) and any State expenditures for which Matching Funds (CFDA 93.596) are claimed (42 USC 9858c(c)(3)(C); 45 CFR section 98.52).

Tribes are allowed 15 percent of the amount expended under CFDA 93.575 and 93.596 for administrative costs. Tribes with at least 50 children under age 13 are provided a base amount of \$20,000 which may be expended for any purpose consistent with the purpose and requirements of the CCDF. Tribes with fewer than 50 children who are members of a consortium receive a pro rata amount of the \$20,000 in proportion to the number of children under age 13 in relation to 50. The base amount is not

included in the amount against which the administrative earmark is calculated (45 CFR sections 98.61(c), 98.83(e), and 98.83(g)).

The following activities are not considered administrative costs (63 FR 39962):

- Eligibility determination and redetermination.
- Preparation and participation in judicial hearings.
- Child care placement.
- Recruitment, licensing, inspection, review and supervision of child care placements.
- Rate setting.
- Resource and referral services.
- Training of child care staff.
- Establishment and maintenance of computerized child care information systems.
- Establishing and operating a certificate program

- b. *Quality Earmark* - States and territories must spend on quality and availability activities, as provided for in the State/territorial plan, not less than 4 percent of CCDF funds expended (i.e., the total of CFDA 93.575 and 93.596 funds) and any State expenditures for which Matching Funds (CFDA 93.596) are claimed (45 CFR section 98.51).

Only those Tribes receiving grants over \$500,000 must spend at least four percent of CCDF funds expended on quality activities as described in the tribal plan/application. The \$20,000 base amount is not included in the amount against which the quality earmark is calculated (45 CFR sections 98.51(a), 98.83(e), and 98.83(f)).

- c. *Specific Earmark* - Congress may also specifically earmark funds for certain purposes. For example, in the fiscal year (FY) 1998 HHS appropriation, Congress specified three earmarks -- one for resource and referral and school-aged activities, another for activities to increase the supply of quality child care for infants and toddlers, and a third earmark of additional funds for quality improvement activities. When there is such an earmark, a separate award accompanied by specific terms and conditions is issued for these earmarked funds.

H. Period of Availability of Federal Funds

1. Discretionary Funds (CFDA 93.575) must be obligated by the end of the succeeding fiscal year after award, and expended by the end of the third fiscal year after award (42 USC 9858h(c); 45 CFR section 98.60).
2. Mandatory Funds (CFDA 93.596) for States must be obligated by the end of the fiscal year in which they are awarded if the State also requests Matching Funds

(CFDA 93.596). If no Matching Funds are requested for the fiscal year, then the Mandatory Funds (CFDA 93.596) are available until expended (45 CFR section 98.60(d)).

3. Mandatory Funds (CFDA 93.596) for tribes must be obligated by the end of the succeeding fiscal year after award, and expended by the end of the third fiscal year after award (45 CFR section 98.60(e)).
4. Matching Funds (CFDA 93.596) must be obligated by the end of the fiscal year in which they are awarded, and expended by the end of the succeeding fiscal year after award (45 CFR section 98.60(d)).
For example, availability periods for FY 1999 funds awarded on any date in FY 1999 (October 1, 1998 through September 30, 1999):

If Source of Obligation Is --	Obligation must Be Made by End of --	Obligation must Be Liquidated by End of --
Discretionary* (CFDA 93.575)	FY 2000 (i.e., by 9/30/00)	FY 2001 (i.e., by 9/30/01)
Mandatory (State) (CFDA 93.596)	FY 1999 (i.e., by 9/30/99 but ONLY if Matching Funds are used)	No requirement for liquidation by a specific date
Mandatory (Tribes) (CFDA 93.596)	FY 2000 (i.e., by 9/30/00)	FY 2001 (i.e., by 9/30/01)
Matching (CFDA 93.596)	FY 1999 (i.e., by 9/30/99)	FY 2000 (i.e., by 9/30/00)

* TANF funds (CFDA 93.558) transferred to the CCDF during a fiscal year are treated as Discretionary Funds of the year they are transferred for purposes of the period of availability (45 CFR section 98.54(a)(1)).

L. Reporting

1. Financial Reporting
 - a. SF-269, *Financial Status Report* - Not applicable
 - b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
 - c. SF-271, *Outlay Report and Request from Reimbursement for Construction Programs* - Not Applicable
 - d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by HHS, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272 series of reports.

- e. *Child Care and Development Fund Financial Report (ACF-696) (OMB No 0970-0163)* is due quarterly from States and territories. The *Child Care and Development Fund Financial Report for Tribes (ACF-696T, OMB No. 0970-0195)* is required from tribes. These reports are in lieu of the SF-269, *Financial Status Report*. Each fiscal year's expenditure report must be separate, therefore, multiple reports may be required if awards from more than one fiscal year are expended in a given quarter. Any funds transferred from TANF are treated as Discretionary Funds for reporting on the ACF-696 (42 USC 604(d); 45 CFR section 98.54(a)).

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

IV. OTHER INFORMATION

Under the TANF program (CFDA 93.558), a State may transfer TANF funds to CCDF and the funds transferred are treated as Discretionary Funds under CCDF (42 USC 604(d); 45 CFR section 98.54(a)). The amounts transferred into CCDF should be included in the audit universe and in total expenditures of CCDF when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amount transferred in should be shown as CCDF expenditures when expended.

Also, as described in Part 4, Social Services Block Grant (SSBG) program (CFDA 93.667), Subpart III.A. Activities Allowed or Unallowed, a State may transfer up to 10 percent of its annual allotment under SSBG to this and six other block grant programs for support of health services, health promotion and disease prevention activities, low-income home energy assistance, or any combination of these activities.

Amounts transferred into this program from SSBG are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.600 HEAD START****I. PROGRAM OBJECTIVES**

The objectives of the Head Start and Early Head Start programs are to provide comprehensive health, educational, nutritional, social and other developmental services primarily to economically-disadvantaged preschool children (ages 3 to 5) and infants and toddlers (birth through age 3) so that the children will attain school readiness. Parents receive social services and participate in various decision-making processes related to the operation of the program.

II. PROGRAM PROCEDURES**Head Start Services**

The Head Start program provides services in the following areas:

Early Childhood Development and Health - Head Start's educational program is designed to meet the needs of each child, the community served, and its ethnic and cultural characteristics. Every child receives a variety of learning experiences to foster intellectual, social, and emotional growth. Head Start also emphasizes the importance of the early identification of health problems. Every child is involved in a comprehensive health program, which includes immunizations, medical, dental, mental health, and nutritional services.

Family and Community Partnerships - An essential part of the Head Start program is the involvement of parents in parent education, program planning, and operating activities. Many parents serve as members of policy councils and committees and have a voice in administrative and managerial decisions. Participation in classes and workshops on child development and staff visits assist parents in identifying the needs of their children and about educational activities that can take place at home. Specific services are geared to each family after its needs are determined. They include community outreach; referrals; family need assessments; recruitment and enrollment of children; and emergency assistance or crisis intervention.

Early Head Start

The 1994 Head Start Reauthorization (Pub. L. No. 103-252) established a new program for low-income pregnant women and families with infants and toddlers.

The purpose of this program is to enhance children's physical, social, emotional and cognitive development; enable parents to be better caregivers to and teachers of their children; and help parents meet their own goals, including that of economic independence.

Administration and Services

Head Start programs operate in all 50 States, the District of Columbia, Puerto Rico, and the U.S. territories. Head Start grants are awarded for an indefinite project period, with an annual budget period which is specific to each grantee. Grants are awarded to public, non-profit, and for-profit organizations directly by the Administration for Children and Families (ACF) in the ten Department of Health and Human Service (HHS) Regional Offices and in Washington, DC.

Early Head Start grantees include Head Start grantees, school systems, universities, colleges, and other public and private entities. In all other respects, Early Head Start grants are subject to the same program performance standards and compliance requirements as Head Start grants; therefore, references to Head Start apply to both. Initial Head Start grants were for a five-year period. Beginning in FY 2000, however, all new Head Start grants were for an indefinite project period. For Early Head Start grantees that are also Head Start grantees, the Early Head Start program will no longer be a separate grant; instead, Early Head Start will be shown as a separate program account in the single grant document.

Grantees may also subgrant some or all of its operational responsibilities for a Head Start/Early Head Start grant to a "delegate agency." Delegate agencies (subrecipients) may be public, non-profit, or for-profit organizations.

Grantees may collaborate with other entities carrying out early childhood education and child care programs in the community, including those funded by the Child Care and Development Fund (CCDF) (93.575, 93.596) and Temporary Assistance to Needy Families (93.558). The coordination and collaboration between Head Start and the CCDF entity is mandated by sections 640(a)(5)(E), 640(g)(2)(D) and (E) and 642(c) of the Head Start Act (42 USC 9837(c)) in the provision of full-working day, full calendar year comprehensive services (42 USC 9835(a)(5)(C)(v)).

Source of Governing Requirements

Head Start began in 1965 under the Office of Economic Opportunity and is now administered by the ACF, HHS. These programs are currently authorized under the Head Start Act (Title VI, Subtitle A, Chapter 8, Subchapter B of Pub. L. No. 97-35), as amended, which is codified at 42 USC 9831- 9843a. The implementing program regulations are 45 CFR parts 1301 through 1308.

Availability of Other Program Information

HHS Head Start Bureau home page on the Internet (<http://www.acf.dhhs.gov/programs/hsb>) provides general information about this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed Or Unallowed

1. Allowable services include, but are not limited to, health (medical, dental, nutrition, and mental health); education; social services; transportation; parent involvement; use of volunteers; career development for teachers, nonprofessional aides and other staff members; and special services for parents (e.g., literacy) (45 CFR part 1304, subparts B, C, and D).
2. Grant funds may, with specific ACF approval, be used for capital expenditures (including paying the cost of amortizing the principal, and paying interest on, loans) such as construction of new facilities, purchase of new or existing facilities, major renovations on existing facilities, and purchase of vehicles used for programs conducted at the Head Start facilities (42 USC 9839 (f) and (g)).

B. Allowable Costs/Cost Principles

Indirect costs attributable to common or joint use of facilities or services must be fairly allocated among the various programs which utilize such services (42 USC 9839(c); 45 CFR section 1301.32), except as provided for in section 640(a)(5)(E)(ii) of the Head Start Act. This provision exempts equipment and nonconsumable supplies from this requirement if Head Start is the predominate funding source for the activity (42 USC 9835(a)(5)(E)(ii)).

G. Matching, Level of Effort, Earmarking Requirements

1. Matching

Grantees are required to contribute at least 20 percent of the costs of the program through cash or in-kind contributions, unless a lesser amount has been approved by ACF (42 USC 9835 (b); 45 CFR sections 1301.20 and 1301.21).

2. Level of Effort - Not Applicable

3. Earmarking

- a. The costs of developing and administering a Head Start program shall not exceed 15 percent of the annual total program costs, including the required non-Federal contribution to such costs (i.e., matching), unless a waiver has been granted by ACF. Development and administrative costs include, but are not limited to, the cost of organization-wide planning, coordination

and general purpose direction, accounting and auditing, purchasing and personnel functions, and the cost of operating and maintaining space for these purposes (42 USC 9839(b); 45 CFR section 1301.32).

- b. Enrollment levels must adhere to the levels specified in the financial assistance award.
 - (1) For grantees other than Indian tribes/tribal organizations, at least 90 percent of the enrollees must come from families whose income is below the official Federal poverty guidelines or who are receiving public assistance (45 CFR section 1305.4).
 - (2) For tribal grantees, the percentage may be as low as 51 percent, providing certain conditions are met (45 CFR section 1305.4(b)(3)).

The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a page on the Internet which provides the poverty guidelines (<http://aspe.os.dhhs.gov/poverty/poverty.htm>).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by HHS, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272 series of reports.

M. Subrecipient Monitoring

Grantees must establish and implement procedures for the ongoing monitoring of their own Early Head Start and Head Start operations, as well as those of their delegate agencies, to ensure that these operations effectively implement Federal regulations. Grantees must inform delegate agency governing bodies of any deficiencies in delegate agency operations identified in the monitoring review and must help them develop plans, including timetables, for addressing identified problems (45 CFR sections 1304.51(i)(2) and (3)).

N. SPECIAL TESTS AND PROVISIONS**1. Licensing Requirement**

Compliance Requirement - The facilities used by Early Head Start and Head Start grantees for regularly scheduled center-based and combination program option class room activities or home-based group socialization activities must comply with applicable State and local requirements concerning licensing (45 CFR section 1306.30(c)).

Audit Objective - Determine whether the grantee has the required license and the license is current.

Suggested Audit Procedures

- a. Ascertain the applicable State and local licensing requirements.
- b. Ascertain if the grantee holds the required license and that the license is current.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.645 CHILD WELFARE SERVICES -- STATE GRANTS****I. PROGRAM OBJECTIVES**

The Child Welfare Services (CWS) program provides funds to State public welfare agencies, Indian Tribes, and Territories to improve their child welfare services in order to keep families together.

II. PROGRAM PROCEDURES

The Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Administration on Children, Youth and Families, Children's Bureau, administers the Child Welfare Service program on the Federal level. Funds are awarded directly to States and Indian Tribes. State agencies can have agreements and contracts with other public agencies and with private agencies for provision of appropriate services. Each State receives a base amount of \$70,000. Additional funds are distributed in proportion to the State's population of children under age 21 multiplied by the complement of the State's average per capita income. The funds must go to, and be administered only by, the State child welfare agency or Indian Tribes or tribal organizations.

To be eligible for funds, each State and Indian Tribe must submit a five-year comprehensive State plan, the Child and Family Services State Plan (CFSP). This plan encompasses planning and service delivery for the full child welfare services spectrum. This includes: Title IV-B, Subpart 2, child abuse and prevention, foster care, adoption, and independent living services. The plan must include how the State or Indian Tribe intends to meet specific goals, provide services, and coordinate services. The ACF Regional Offices have approval authority for the CFSP.

Source of Governing Requirements

The Child Welfare Services program is authorized under Title IV-B, Subpart 1 of the Social Security Act as amended, and is codified at 42 USC 620-628a. Implementing program regulations are published at 45 CFR parts 1355 and 1357.

III. Compliance Requirements

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Funds for CWS may be used to accomplish the following purposes:
 - a. Protecting and promoting the welfare and safety of all children, including individuals with disabilities, homeless, dependent, or neglected children (45 CFR section 1357.10(c)(1));
 - b. Preventing or remedying, or assisting in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of children (45 CFR section 1357.10(c)(2));
 - c. Preventing the unnecessary separation of children from their families by identifying family problems and assisting families in resolving their problems and preventing the breakup of the family where the prevention of child removal is desirable and possible (45 CFR section 1357.10(c)(3));
 - d. Restoring children who have been removed and may be safely returned to their families, by the provision of services to the child and the family (45 CFR section 1357.10(c)(4));
 - e. Assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption (45 CFR section 1357.10(c)(5)); and
 - f. Placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate (45 CFR section 1357.10(c)(6)).
2. Funds may not be used for the purchase or construction of facilities (45 CFR section 1357.30(f)).

G. Matching, Level of Effort, Earmarking**1. Matching**

The State and Indian Tribe match requirement is 25 percent of the Federal funds expended (42 USC 623 and 628). The State's contribution may be in cash, donated funds, and non-public third party in-kind contributions (45 CFR section 1357.30(e)(1)).

2. Level of Effort - Not Applicable**3. Earmarking - Not Applicable**

H. Period of Availability of Federal Funds

Funds under title IV-B, subpart 1, must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded (45 CFR section 1357.30(i)).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable.
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by HHS, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS-272 review of reports.

2. Performance Reporting - Not Applicable.**3. Special Reporting** - Not Applicable.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.658 FOSTER CARE--TITLE IV-E****I. PROGRAM OBJECTIVES**

The objective of the Foster Care program is to help States provide safe, appropriate, 24-hour, substitute care for children who are under the jurisdiction of the administering State agency and need temporary placement and care outside their homes.

II. PROGRAM PROCEDURES**Administration and Services**

The Foster Care program is administered at the Federal level by the Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Funding is provided to the 50 States and the District of Columbia, based on a one-time plan and amendments, as required by changes in statutes, rules, and regulations submitted to and approved by the cognizant ACF Regional Administrator. This program is considered an open-ended entitlement program and allows the State to be funded at a specified percentage (Federal financial participation) for program costs for eligible children.

The designated State agency for this program, which is authorized under Title IV-E of the Social Security Act, as amended, also administers ACF funding provided for other Title IV-E programs, e.g., Adoption Assistance and Transition to Independent Living; Child Welfare Services and Family Support and Preservation (Title IV-B of the Social Security Act, as amended) and the Social Services Block Grant program (Title XX of the Social Security Act, as amended; CFDA 93.667).

Source of Governing Requirements

The Foster Care program is authorized by Title IV-E of the Social Security Act, as amended (42 USC 670 *et seq.*) and implementing regulations at 45 CFR 1355, 1356, and 1357.

As an HHS entitlement program, the Foster Care program is subject to 45 CFR part 74 (in lieu of the HHS implementation of the A-102 Common Rule), as specified in 45 CFR section 74.1(a)(3), and to Office of Management and Budget Circular A-87 (as implemented in "Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government," HHS Publication ASMB C-10, available on the Internet at <http://www.hhs.gov/progorg/grantsnet/index2.htm>). This program is also subject to 45 CFR part 95.

States are required to adopt and adhere to their own statutes and regulations for program implementation, consistent with the requirements of Title IV-E and the approved State plan.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look first to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Activities Allowed

- a. Funds may be expended for Foster Care maintenance payments on behalf of eligible children, in accordance with the State's Foster Care maintenance payment rate schedule, to individuals serving as foster family homes, to child-care institutions, or to public or non-profit child-placement or child-care agencies. Such payments may include the cost of (and the cost of providing, including the associated administrative and operating costs of an institution) food, clothing, shelter, daily supervision, school supplies, personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation (42 USC 672(b)(1) and (2), (c)(2), and 675(4)).
- b. Funds may be expended for training (including both short and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the agency administering the plan (42 USC 674(a)(3)(A)).
- c. Funds may be expended for short-term training, including associated travel and per diem, of foster parents and staff of licensed or approved child-care institutions at the initiation of or during their period of care (45 CFR section 1356.60(c)(4)).
- d. Funds may be expended for costs directly related to the administration of the program, including those associated with eligibility determination and redetermination; referral to services; placement; preparation for and participation in hearings and appeals; rate setting; recruitment and licensing of foster homes and institutions; and a proportionate share of related agency overhead (45 CFR section 1356.60(c)).
- e. With any required ACF approval, funds may be expended for costs related to design, implementation and operation of a State-wide data collection system (45 CFR sections 1356.60(d) and 95.611).

2. **Activities Unallowed**

Costs of social services provided to a child, the child's family, or the child's foster family which provide counseling or treatment to ameliorate or remedy personal problems, behaviors, or home conditions are unallowable (45 CFR section 1356.60(c)(3)).

B. **Allowable Costs/Cost Principles**

In addition to the requirements of OMB Circular A-87, States are subject to the cost allocation provisions and rules governing allowable costs of equipment of 45 CFR part 95, which references OMB Circular A-87 at 45 CFR section 95.507(a)(2) (45 CFR sections 1355.57, 95.503, and 95.705).

E. **Eligibility**

1. **Eligibility for Individuals**

Foster Care benefits may be paid on behalf of a child only if all of the following requirements are met:

- a. Foster Care maintenance payments are allowable only if the foster child was removed from his or her home by means of a judicial determination or pursuant to a voluntary placement agreement, as defined in 42 USC 672(f) (42 USC 672(a) and 45 CFR 1356.21).

- (1) *Judicial Determination*

- (a) *Contrary to the welfare determination* - If the removal was by judicial determination, the first court ruling that sanctions (even temporarily) the removal of a child from the home of a specified relative must contain language to the effect that remaining at home would be contrary to the child's welfare. If the determination regarding contrary to the welfare is not made in the first court ruling pertaining to the removal from the home, the child is not eligible for Foster Care maintenance payments for the duration of that stay in Foster Care (45 CFR section 1356.21(c)).
- (b) *Removal from home of a specified relative* - Within 60 days from the date of the removal from home pursuant to 45 CFR 1356.21(k)(ii), there must be a judicial determination as to whether reasonable efforts were made, or were not required to prevent the removal (e.g., child subjected to aggravated circumstances such as abandonment, torture, chronic abuse, sexual abuse, parent convicted of murder or voluntary manslaughter or aiding or abetting in such

- activities). If the determination regarding reasonable efforts to prevent removal is not made, the child is not eligible for Foster Care maintenance payments for the duration of that stay in Foster Care (45 CFR 1356.21(b)(1) and (k)).
- (c) *Permanency plan* - A judicial determination regarding reasonable efforts to finalize the permanency plan must be made within 12 months of the date on which the child is considered to have entered Foster Care and at least once every 12 months thereafter while the child is in Foster Care. If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made within this timeframe, the child is ineligible at the end of the 12th month from the date the child was considered to have entered Foster Care or at the end of the month in which the subsequent judicial determination of reasonable efforts was due, and the child remains ineligible until such a judicial determination is made (45 CFR 1356.21(b)(2)).
- (i) *Prior to March 27, 2000* - For a child who entered Foster Care on or before March 27, 2000, the judicial determination of reasonable efforts to finalize the permanency plan must be made no later than March 27, 2001, because such child will have been in care for 12 months or longer (January 25, 2000, *Federal Register* (65 FR 4020)).
- (ii) *After March 27, 2000* - For a child who enters care after March 27, 2000, the judicial determination of reasonable efforts to finalize the permanency plan must be made no later than 12 months from the date the child is considered to have entered Foster Care (January 25, 2000, *Federal Register* (65 FR 4020)).
- (2) If the removal was by a voluntary placement agreement, it must be followed within 180 days by a judicial determination to the effect that such placement is in the best interests of the child (42 USC 672(e); and 45 CFR section 1356.30(b)).
- b. The child's placement and care are the responsibility of either the State agency administering the approved Title IV-E plan or any other public agency under a valid agreement with the cognizant State agency (42 USC 672(a)(2)).

- c. A child must meet the eligibility requirements of the former Aid to Families with Dependent Children (AFDC) program (i.e., meet the State-established standard of need as of July 16, 1996, prior to enactment of the Personal Responsibility and Work Opportunity Reconciliation Act). Unless the child is expected to graduate from a secondary educational institution before his or her 19th birthday, eligibility ceases at the child's 18th birthday (42 USC 672(a)).
- d. The provider, whether a foster family home or a child-care institution must be fully licensed by the proper State Foster Care licensing authority. A child care institution is defined as a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed or approved by the State in which it is situated, but does not include detention facilities, forestry camps, training schools, or facilities operated primarily for the purpose of detention of children who are determined to be delinquent (42 USC 671(a)(10) and 672(c)).
- e. The foster family home provider must have satisfactorily met a criminal records check with respect to prospective foster and adoptive parents (45 CFR 1356.30(a) and (b)).
- f. The licensing file for the child-care institution must contain documentation which verifies that safety considerations with respect to staff of the institution have been addressed (45 CFR 1356.30(f)).

2. Eligibility of Groups of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

F. Equipment and Real Property Management

Equipment that is capitalized and depreciated or is claimed in the period acquired and charged to more than one program is subject to 45 CFR section 95.707(b) in lieu of the requirements of the A-102 Common Rule and the HHS implementation at 45 CFR part 74 (45 CFR section 95.707(b)).

G. Matching, Level of Effort , and Earmarking

1. Matching

The percentage of required State funding and associated Federal funding ("Federal financial participation" (FFP)) varies by type of expenditure as follows:

- a. The percentage of Federal funding in Foster Care maintenance payments will be the Federal Medical Assistance Program percentage. This percentage varies by State and is available on the Internet

(<http://www.hcfa.gov/medicaid/ofs%2Dffp.htm>) (42 USC 674(a)(1); 45 CFR section 1356.60(a)).

- b. The percentage of Federal funding in expenditures for short- and long-term training at educational institutions of employees or prospective employees, and short-term training of current or prospective foster or adoptive parents and members of staff of State-licensed or State-approved child-care institutions (including travel and per diem) is 75 percent (42 USC 674(a)(3)(A) and (B); 45 CFR section 1356.60(b)).
- c. The percentage of Federal funding for expenditures for planning, design, development, and installation and operation of a Statewide automated child welfare information system meeting specified requirements (and expenditures for hardware components for such systems) is 50 percent (42 USC 674(a)(3)(C) and (D); 45 CFR sections 1355.52 and 1356.60(d)).
- d. The percentage of Federal funding of all other allowable administrative expenditures is 50 percent (42 USC 674 (a)(1)(E); 45 CFR section 1356.60(c)).

2. Level of Effort - Not Applicable

3. Earmarking - Not Applicable

H. Period of Availability of Federal Funds

This program operates on a cash accounting basis and each year's funding and accounting is discrete. To be eligible for Federal funding, claims must be submitted to ACF within 2 years after the calendar quarter in which the State made the expenditure. This limitation does not apply to any claim resulting from a court-ordered retroactive adjustment (45 CFR sections 95.7, 95.13, and 95.19).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS, Payment Management System (PMS). Reporting

equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS-272 series of reports.

- e. ACF-Title IV-E-1, *Foster Care and Adoption Assistance Financial Report (OMB No. 0970-0205)* - States report current expenditures for the previous quarter, and estimate costs for the next quarter. States may also report adjustments to prior quarter costs for the prior two years.

Key Line Items - The following line items contain critical information.

Part 1, Foster Care, columns (a) through (d)

Part 2, Foster Care, columns (a) through (d)

- 2. **Performance Reporting** - Not Applicable
- 3. **Special Reporting** - Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.659 ADOPTION ASSISTANCE (Title IV-E)****I. PROGRAM OBJECTIVES**

The objective of the Adoption Assistance program is to facilitate the placement of hard to place children in permanent adoptive homes and thus prevent long, inappropriate stays in foster care.

II. PROGRAM PROCEDURES**Administration and Services**

The Adoption Assistance program is administered at the Federal level by the Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). The Adoption Assistance program provides funds to States for adoption assistance agreements with parents who adopt eligible children with special needs. Federal matching funds are provided to States that provide adoption assistance subsidy payments to parents who adopt Aid for Families with Dependent Children (AFDC) eligible (i.e., meet the State-established standard of need as of July 16, 1996, prior to enactment of the Personal Responsibility and Work Opportunity Reconciliation Act) or children eligible for Supplemental Security Insurance (SSI) with special needs. An adoption assistance agreement is a written agreement between the adoptive parents, the State IV-E agency, and other relevant agencies (such as a private adoption agency) specifying the nature and amount of assistance to be given on a monthly basis to parents who adopt eligible special needs children. A child with special needs is defined as a child who the State has determined cannot or should not be returned home; has a specific factor or condition, as defined by the State, because of which it is reasonable to conclude that the child cannot be adopted without financial or medical assistance; and for whom a reasonable effort has been made to place the child without providing financial or medical assistance (42 USC 673(a)(2)).

Funding is provided to the 50 States and the District of Columbia, based on a one-time State plan and amendments, as required by changes in statutes, rules and regulations submitted to and approved by the cognizant ACF Regional Administrator. The Adoption Assistance program is an open-ended entitlement program. Federal financial participation in State expenditures for adoption assistance agreements is provided at the Medicaid match rate for medical assistance payments, which varies among States. Monthly payments to families and institutions made on behalf of eligible adopted children also vary from State to State. Federal financial participation is made at an open-ended 50 percent match rate for State administrative expenditures and at an open-ended 75 percent for State training expenditures. In addition, the program authorizes Federal matching funds for States that reimburse the non-recurring adoption expenses of adoptive parents of special needs children (regardless of AFDC or SSI eligibility).

The designated State agency for this program also administers ACF funding provided for other Social Security Act programs (e.g., Foster Care and Transition to Independent Living; Child Welfare Services and Promoting Safe and Stable Families (Title IV-B of the Social Security Act,

as amended) and the Social Services Block Grant program (Title XX of the Social Security Act, as amended).

Source of Governing Requirements

The Adoption Assistance program is authorized by Title IV-E of the Social Security Act, as amended (42 USC 670 *et seq.*). Implementing regulations are published at 45 CFR parts 1355 and 1356. States are to implement the program according to their State plan, which is submitted to HHS for approval.

As an HHS entitlement program, the Adoption Assistance program is subject to 45 CFR part 74 (in lieu of the HHS implementation of the A-102 Common rule), as specified in 45 CFR section 74.1(a)(3), and to Office of Management and Budget Circular A-87 (as implemented in "Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost rates for Agreements with the Federal government," HHS Publication ASMB C-10, available on the Internet at www.hhs.gov/progorg/grantsnet/index2.htm). This program is also subject to 45 CFR part 95.

States are required to adopt and adhere to their own statutes and regulations for program implementation, consistent with the requirements of Title IV-E and the approved State Plan.

Availability of Other Program Information

The Children's Bureau manages a policy issuance system that provides further clarification of the law and guides States in implementing the Adoption Assistance program. This information may be accessed on the Internet at www.acf.dhhs.gov/programs/cb/laws/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Adoption Assistance Subsidies* - Funds may be expended for adoption assistance agreement subsidy payments, in accordance with the State's foster care maintenance payment rate schedule; administrative payments for expenses associated with placing children in adoption; and training of professional staff and parents involved in adoptions. Subsidy payments are made to adoptive parents based on the need of the child and the circumstances of the adopting parents (42 USC 673(a)(2)). Adoption assistance subsidy payments cannot exceed the foster care maintenance payment the child would have received in a foster family home; however, the amount of the subsidy payments may be up to 100 percent of the foster care maintenance payment rate (42 USC 673(a)(3)).

2. *Administrative Costs*

- a. *Program Administration* - Funds may be expended for costs directly related to the administration of the program. State cost allocation plans will identify which costs are allocated and claimed under this program (45 CFR section 1356.60(c)).
- b. *Nonrecurring Costs* - Funds may be expended by a State under an adoption assistance agreement for nonrecurring expenses (45 CFR section 1356.41). Nonrecurring adoption expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees and other expenses that are directly related to the legal adoption of a child with special needs. Other expenses may include those costs of adoption incurred by or on behalf of the adoptive parents, such as, the adoption study, health and psychological examination, supervision of the placement prior to adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoptions process (45 CFR section 1356.41).

3. *Training*

- a. Funds may be expended for short-term training of current or prospective adoptive parents and members of staff of State-licensed or State-approved child care institutions (including travel and per diem) at the initiation of or during their provision of care (42 USC 674(a)(3)(B) and 45 CFR section 1356.60(c)(4)).
- b. Funds may be expended for training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the agency administering the plan (42 USC 674(a)(3)(A)).

B. Allowable Costs/Cost Principles

In addition to the requirements of OMB Circular A-87, States are subject to the cost allocation provisions and rules governing allowable costs of equipment of 45 CFR part 95, which references OMB Circular A-87 at 45 CFR section 95.507(a)(2) (45 CFR sections 1355.57, 95.503 and 95.705).

E. Eligibility

1. Eligibility for Individuals

- a. Adoption assistance subsidy payments may be paid on behalf of a child only if all of the following requirements are met:

- (1) The child is Title IV-E foster care eligible; is eligible for the former Aid to Families with Dependent Children (AFDC) program (i.e., meet the State-established standard of need as of July 16, 1996, prior to enactment of the Personal Responsibility and Work Opportunity Reconciliation Act); or is eligible for SSI (42 USC 673(a)(2)(A)).
 - (2) The child was determined by the State to be a child with special needs (42 USC 673(c)).
 - (3) The State has made reasonable efforts to place the child for adoption without a subsidy (42 USC 673(c)).
 - (4) The agreement for the subsidy was signed and was in effect before the final decree of adoption and contains information concerning the nature of services; the amount and duration of the subsidy; the child's eligibility for Title XX services and Title XIX Medicaid; and covers the child should he/she move out of State with the adoptive family (42 USC 675(3)).
- b. Nonrecurring expenses of adoption may be paid on behalf of a child only if all of the following requirements are met:
- (1) The agreement, as a separate document or part of an agreement for State or Federal Adoption assistance payment or services, was signed prior to the final decree of adoption (45 CFR section 1356.41).
 - (2) The agreement indicates the nature and amount of the nonrecurring expenses to be paid (45 CFR section 1356.41(a)).
 - (3) The State has determined that the child is a child with special needs (45 CFR section 1356.41(d)).
 - (4) The child has been placed for adoption in accordance with applicable State and local laws (45 CFR section 1356.41(d)).
- c. There may be no income eligibility requirement (means test) for the prospective adoptive parent(s) in determining eligibility for adoption assistance subsidy payments or nonrecurring expenses of adoption (45 CFR sections 1356.40(c) and 1356.41(c)).
- 2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable**
 - 3. Eligibility for Subrecipients - Not Applicable**

F. Equipment and Real Property Management

Equipment that is capitalized and depreciated or is claimed in the period acquired and charged to more than one program is subject to 45 CFR section 95.707(b) in lieu of the requirements of the A-102 Common Rule (and the HHS implementation at 45 CFR part 74) (45 CFR section 95.707(b)).

G. Matching, Level of Effort, and Earmarking**1. Matching**

The percentage of required State funding and associated Federal funding ("Federal financial participation" (FFP)) varies by type of expenditure as follows:

- a. *Adoption Assistance Subsidy Payments* - The percentage of Title IV-E funding in adoption assistance subsidy payments will be the Federal Medical Assistance Program percentage. This percentage varies by State and is available on the Internet at aspe.os.dhhs.gov/health/fimap.htm (42 USC 674(a)(1); 45 CFR section 1356.60(a)).
- b. *Training* - The percentage of Federal funding in expenditures for short- and long-term training at educational institutions of employees or prospective employees, and short-term training of current or prospective foster or adoptive parents and members of staff of State-licensed or State-approved child care institutions (including travel and per diem) is 75 percent (42 USC 674(a)(3)(A) and (B); 45 CFR section 1356.60(b)).
- c. *Administrative Costs*
 - (1) The percentage of Federal funding for expenditures for planning, design, development, and installation and operation of a Statewide automated child welfare information system meeting specified requirements (and expenditures for hardware components for such systems) is 50 percent (42 USC 674(a)(3)(C) and (D); 45 CFR sections 1355.52 and 1356.60(d)).
 - (2) The percentage of Federal funding of all other allowable administrative expenditures, is 50 percent (42 USC 674 (a)(3)(E); 45 CFR sections 1356.41(f) and 1356.60(c)).

2. Level of Effort - Not Applicable**3. Earmarking - Not Applicable**

H. Period of Availability of Federal Funds

This program operates on a cash accounting basis and each year's funding and accounting is discrete. To be eligible for Federal funding, claims must be submitted to ACF within two years after the calendar quarter in which the State made the expenditure. This limitation does not apply to any claim for an adjustment to prior year costs or resulting from a court-ordered retroactive adjustment (45 CFR sections 95.7, 95.13 and 95.19).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS-272 series of reports.
- e. ACF-IV-E-1, *Foster Care and Adoption Assistance Financial Report (OMB No. 0970-0205)* - States report current expenditures for the previous quarter. States may also report adjustments to prior quarter costs for the prior two years.

Key Line Items - The following items contain critical information.

Part 1, Adoption Assistance, columns (a) through (d)

Part 2, Adoption Assistance, columns (a) through (d)

Part 4, Demonstration Projects, columns (a) through (d) (applicable only for States with approved Title IV-E waiver demonstration)

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.667 SOCIAL SERVICES BLOCK GRANT****I. PROGRAM OBJECTIVES**

The purpose of the Social Services Block Grant (SSBG) program is to provide funds to States (including the District of Columbia and five territories) to provide services for individuals, families, and entire population groups in one or more of the following areas: (1) achieving or maintaining economic self-support and self-sufficiency to prevent, reduce, or eliminate dependency; (2) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests; (3) preserving, rehabilitating, or reuniting families; (4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of intensive care; and (5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

II. PROGRAM PROCEDURES**Administration and Services**

The SSBG program is administered by the Administration for Children and Families (ACF), a component of the Department of Health and Human Services (HHS). Funds are awarded based on the State's population following receipt and review of the State's report on the proposed use of funds for the coming year, which serves as the State's plan. States have the flexibility to determine what services will be provided, consistent with the statutory goals and objectives, who is eligible, and how funds will be distributed among services and entities within the State, including whether to provide services directly or obtain them from other public or private agencies and individuals. The State must also conduct a public hearing on the proposed use and distribution of funds, as included in the report, as a prerequisite to the receipt of SSBG funds.

Source of Governing Requirements

The SSBG program is authorized under Title XX of the Social Security Act, as amended, and is codified at 42 USC 1397 through 1397e. The implementing regulations for this and other block grant programs authorized by Omnibus Budget Reconciliation Act of 1981 are published at 45 CFR part 96. Those regulations include both specific requirements and general administrative requirements (in lieu of either 45 CFR part 74 (OMB Circular A-110) or part 92 (A-102 Common Rule)) for the covered block grant programs. Requirements specific to SSBG are in 45 CFR sections 96.70 through 96.74.

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, States are to use the fiscal policies that apply to their own funds in administering SSBG.

Procedures must be adequate to assure the proper disbursement of and accounting for Federal funds paid to the grantee, including procedures for monitoring the assistance provided (45 CFR section 96.30).

Under the block grant philosophy, each State is responsible for designing and implementing its own SSBG program, within very broad Federal guidelines. States must administer their SSBG program according to their approved plan and any amendments and in conformance with their own implementing rules and policies.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Services provided with SSBG funds may include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, family planning services, training and related services, employment services, information, referral, counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, and alcoholics and drug addicts (42 USC 1397a(a)). Uniform definitions for these services are included in Appendix A to 45 CFR part 96 - Uniform Definitions of Services.

Expenditures for these services may include expenditures for administration, including planning and evaluation, personnel training and retraining directly related to the provision of those services (including both short- and long-term training at educational institutions), and conferences and workshops and assistance to individuals participating in such activities (42 USC 1397a(a)).

2. A State may purchase technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing or administering the SSBG program (42 USC 1397a(e)).
3. A State may transfer up to 10 percent of its annual allotment to the following block grants for support of health services, health promotion and disease prevention activities, low-income home energy assistance, or any combination of these activities: Preventive Health and Health Services Block Grant (CFDA 93.991); Block Grants for Prevention and Treatment of Substance Abuse (CFDA 93.959); Maternal and Child Health Services Block Grant to the States (CFDA 93.994); Low-Income Home Energy Assistance (CFDA 93.568); Temporary

Assistance for Needy Families (CFDA 93.558); Child Care and Development Fund (CFDA 93.575 and 93.596); and Community Services Block Grant (93.569) (42 USC 1397a(d); 45 CFR section 96.72).

4. Funds may not be used for:
 - a. Purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any facility (unless the restriction is waived by ACF) (42 USC 1397(d)(a)(1)).
 - b. Cash payments for costs of subsistence or for the provision of room and board (other than costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary shelter provided as a protective service) (42 USC 1397(d)(a)(2)).
 - c. Wages of any individual as a social service (other than payment of wages of Temporary Assistance for Needy Families (TANF) (CFDA 93.558) recipients employed in the provision of child day care services) (42 USC 1397(d)(a)(3)).
 - d. Medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug-dependent individual) unless it is an integral but subordinate part of an allowable social service under SSBG (unless the restriction is waived by ACF) (42 USC 1397(d)(a)(4)).
 - e. Social services (except services to an alcoholic or drug-dependent individual or rehabilitation services) provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution (42 USC 1397(d)(a)(5)).
 - f. The provision of any educational service which the State makes generally available to its residents without cost and without regard to their income (42 USC 1397(d)(a)(6)).
 - g. Any child day care services unless such services meet applicable standards of State and local law (42 USC 1397(d)(a)(7)).
 - h. The provision of cash payments as a service (this limitation does not apply to payments to individuals with respect to training or attendance at conferences or workshops) (42 USC 1397(d)(a)(8)).
 - i. Any item or service (other than an emergency item of service) furnished by an entity, physician, or other individual during the period of exclusion

from reimbursement by various provisions of Federal regulations (42 USC 1397(d)(a)(9)).

B. Allowable Costs/Cost Principles

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, SSBG is exempt from the provisions of OMB cost principles circulars. State cost principles requirements apply to SSBG.

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**

The State shall use all of the amount transferred in from TANF (CFDA 93.558) for only for programs and services to children or their families whose income is less than 200 percent of the official poverty guideline as revised annually by HHS (42 USC 604(d)(3)(A) and 9902(2)). Additional information on this transfer in is provided in IV. Other Information.

The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a page on the Internet which provides the poverty guidelines (<http://aspe.os.dhhs.gov/poverty/poverty.htm>).

H. Period of Availability of Federal Funds

SSBG funds must be expended by the State in the fiscal year allotted or in the succeeding fiscal year (42 USC1397a(c)).

IV. OTHER INFORMATION

Transfers out of SSBG

As discussed in "III.A. Activities Allowed or Unallowed," funds may be transferred out of SSBG to other Federal programs. The amounts transferred out of SSBG are subject to the requirements of the program into which they are transferred and should not be included in the audit universe and total expenditures of SSBG when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amount transferred out should not be shown as SSBG expenditures but should be shown as expenditures for the program into which they are transferred.

Transfers into SSBG

A State may transfer up to 10 percent (4.25 percent beginning with Federal fiscal year 2002) of the combined total of the State family assistance grant, supplemental grant for population increases, and bonus funds for high performance and illegitimacy reduction, if any, (all part of TANF) for a given fiscal year to carry out programs under the SSBG. Such amounts may be used only for programs or services to children or their families whose income is less than 200 percent of the poverty level. The amount of the transfers is reflected on the quarterly *Temporary Assistance for Needy Families (TANF) ACF-196 Financial Report*. The amounts transferred into this program are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.767 STATE CHILDREN'S INSURANCE PROGRAM (SCHIP)****I. PROGRAM OBJECTIVES**

Title XXI of the Social Security Act (Act) authorizes a new State Children's Health Insurance Program (SCHIP) to assist State efforts in initiating and expanding the provision of child health assistance to uninsured, low-income children. Under Title XXI, States may provide child health assistance primarily for obtaining health benefits coverage through (1) obtaining coverage under a separate child health program that meets specific requirements; (2) expanding benefits under the State's Medicaid plan under Title XIX of the Act; or (3) a combination of both. To be eligible for funds under this program, States must submit a State child health plan (State plan), which must be approved by the Secretary.

II. PROGRAM PROCEDURES**Administration and Services**

At the Federal level, SCHIP is administered by the Department of Health and Human Services, through the Center for Medicaid and State Operations (CMSO) of the Centers for Medicare & Medicaid Services (CMS).

Title XXI authorizes grants to States that initiate or expand health insurance programs for low-income, uninsured children. Under title XXI, SCHIP is jointly financed by the Federal and State governments and is administered by the States. Within broad Federal guidelines, each State determines the design of its program, eligible groups, benefit packages, payment levels for coverage and administrative and operating procedures. SCHIP provides a capped amount of funds to States on a matched basis for fiscal years (FY) 1998 through 2007. Federal payments under Title XXI to States are based on State expenditures under approved plans that could be effective on or after October 1, 1997.

State Plans

Title XXI State plans and amendments to those plans are approved in CMS's central office. The plans are submitted for review by an intra-Departmental team, which must decide upon approval or disapproval within a 90-day period. This "90-day clock" can be stopped by sending a formal written request for additional information from the State, to be restarted at the same point when a response is formally received. Copies of State plans are available from the State SCHIP administrator.

Waivers

The State may apply for a waiver of SCHIP Federal requirements. Waivers are intended to provide flexibility needed to enable States to try new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs of particular areas or groups of enrollees. Waivers allow exceptions to State plan requirements that

permit the State to implement innovative programs or activities on a time-limited basis. Such demonstration projects are subject to specific safeguards for the protection of enrollees and the program. The Secretary will approve only demonstration projects that are consistent with key principles of the SCHIP statute. States' waiver authority is found at 42 USC 1397gg(e), which extends to SCHIP the Medicaid waiver authority at 42 USC 1315.

Source of Governing Requirements

Section 4901(a) of the Balanced Budget Act of 1997 (BBA), Public Law 105-33, as amended by Public Law 105-100, added Title XXI to the Social Security Act. Title XXI authorizes SCHIP to assist State efforts to initiate and expand the provision of child health assistance to uninsured, low-income children. Title XXI is codified at 42 USC 1397aa-1397jj. The regulations for this program are found at 42 CFR parts 431, 433, 435, 436, and 457.

Availability of Other Program Information

States and other interested parties can access information on the Department's policies on this and other issues on the Internet at www.hcfa.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

- 1. Activities Allowed** - States have general flexibility in allocating their individual allotments toward activities needed to conduct the SCHIP program (42 USC 1397ee(a)). In addition to expenditures for child health assistance under the plan for targeted low-income children, other allowable activities, to the extent permitted by 42 USC 1397ee(c), include payment of other child health assistance for targeted low-income children; expenditures for health services initiatives for improving the health of children (targeted and other low income) under the plan; expenditures for outreach activities, and other reasonable costs incurred by the State to administer the plan (42 USC 1397ee).
- 2. Activities Unallowed** - Federal funds may not be expended under the State plan to pay for any abortion or to assist in the purchase, in whole or in part, of health coverage that includes coverage of abortion, except if necessary to save the life of the mother or if the pregnancy is the result of incest or rape (42 USC 1397ee(c)).

E. Eligibility**1. Eligibility for Individuals**

States have flexibility in determining eligibility levels for individuals for whom the State will receive enhanced matching funds within the guidelines established under the Act. Generally, a State may not cover children with higher family income without covering children with a lower family income, nor deny eligibility based on a child having a preexisting medical condition. States are required to include in their State plans a description of the standards used to determine eligibility of targeted low-income children. State plans should be consulted for specific information concerning individual eligibility requirements (42 USC 1397bb(b)).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable**3. Eligibility for Subrecipients - Not Applicable****G. Matching, Level of Effort, Earmarking****1. Matching**

The State matching rate for its SCHIP expenditures is determined in accordance with the Federal matching rate for such expenditures, referred to as the enhanced Federal medical assistance percentage (Enhanced FMAP) for a State. That is, the SCHIP State matching rate is calculated by subtracting the Medicaid FMAP rate from 100, taking 30 percent of the difference, and then adding it to the Medicaid FMAP rate. The Enhanced FMAP is calculated in accordance with 42 USC 1397ee(b), which provides that the Enhanced FMAP for a State shall never exceed 85 percent. Calculated FMAPs and enhanced FMAPs may be found on the Internet at aspe.hhs.gov/health/fmap.htm (42 USC 1397ee(a) and (b)).

2.1 Level of Effort - *Maintenance of Effort*

- a. In order to receive Federal matching funds for SCHIP expenditures at the enhanced matching rate, each State must continue to maintain its Medicaid eligibility standards and the methodologies that were applied in its Medicaid State plans as of June 1, 1997 (42 USC 1397ee(d)(1) and 1397jj(b)).
- b. Three States, New York, Florida and Pennsylvania, maintain "existing comprehensive State-based programs." For these three States only, beginning with FY 1999, the amount of the State's allotment for a fiscal year is reduced by the amount that the "State children's health insurance expenditures" for the previous fiscal year is less than the total of such

expenditures for FY 1996. For purposes of this provision, the term "State children's health insurance expenditures" means: the State share of Title XXI (SCHIP) expenditures; the State share of expenditures under Title XIX (Medicaid) attributable to an enhanced FMAP under section 1905(u) of the Act (42 USC 1396d(u)); and State expenditures for health benefits coverage under an existing comprehensive State-based program (42 USC 1397cc(d)(1) and 1397ee(d)(2)).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

Expenditures not directly related to providing child health insurance assistance under their plan are limited to 10 percent of the State's total expenditures on health benefits through SCHIP. The following expenditures are subject to the 10 percent limit: (1) payment for other child health assistance for targeted low-income children; (2) expenditures for health services initiatives under the State child health assistance plan for improving the health of children; (3) expenditures for outreach activities; and (4) other reasonable costs incurred by the State to administer the State child health assistance plan (42 USC 1397ee(c)). States may apply for a waiver, or variance of this 10 percent cap under 42 USC 1397ee(c)(2). If applicable, information regarding such a waiver is in the State plan.

The 10 percent limit is applied on an annual fiscal year basis and is calculated based on: (1) the total amounts of expenditures and (2) the quarter in which such expenditures are claimed by the State for the fiscal year (42 USC 1397ee).

H. Period of Availability of Federal Funds

The amount of a State's SCHIP allotment for a fiscal year remains available for expenditures by that State for a 3-year period, i.e., the fiscal year of award, and the two subsequent fiscal years (42 USC 1397dd(e) and (f)).

Allotments for fiscal years 1998 and 1999 were extended and remain available until the end of fiscal year 2002 (Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-579, December 21, 2000).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable

- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. Form HCFA-64, *Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program (OMB No. 0938-0067)*
- f. Form HCFA-21, *Quarterly Children's Health Insurance Program Statement of Expenditures for Title XXI (OMB No. 0938-0731)*

Key Line Items - The following line items contain critical information.

HCFA-21 Base - Form HCFA-21 consists of three parts: HCFA-21 Base, HCFA-21B, and HCFA 21C. Only HCFA-21 Base is expected to be tested for compliance.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.778 MEDICAL ASSISTANCE PROGRAM (Medicaid; Title XIX)
CFDA 93.775 STATE MEDICAID FRAUD CONTROL UNITS
CFDA 93.777 STATE SURVEY AND CERTIFICATION OF HEALTH CARE
PROVIDERS AND SUPPLIERS**

Note: In accordance with OMB Circular A-133, § ___.525(c)(2), when the auditor is using the risk-based approach for determining major programs, the auditor should consider that the Department of Health and Human Services (HHS) has identified the Medicaid Assistance Program as a program of higher risk. While not precluding an auditor from determining that the Medicaid Cluster qualifies as a low-risk program (e.g., because prior audits have shown strong internal controls and compliance with Medicaid requirements), this identification by HHS should be considered as part of the risk assessment process.

I. PROGRAM OBJECTIVES*Medical Assistance Program*

The objective of the Medical Assistance Program (Medicaid or Title XIX of the Social Security Act, as amended, (42 USC 1396, *et seq.*)) is to provide payments for medical assistance to low-income persons who are age 65 or over, blind, disabled, or members of families with dependent children or qualified pregnant women or children.

State Medicaid Fraud Control Units

The mission of the State Medicaid Fraud Control Units is to investigate and prosecute violations of all applicable State laws pertaining to fraud in the administration of the Medicaid program, the provision of medical assistance, or the activities of providers of medical assistance under the State Medicaid plan. The State Medicaid Fraud Control Units also review complaints alleging abuse or neglect of patients in health care facilities receiving payments under the State Medicaid plan, and may review complaints of misappropriation of patients' private funds in such facilities. Federal requirements for the establishment and continued operations of the units are contained in 42 USC 1396b(a)(6), 1396b(b)(3), and 1396b(q); and 42 CFR part 1007. A key requirement of the governing regulations is that a unit must be a single identifiable entity of State government.

The HHS Office of Inspector General (OIG) is the agency responsible for the Federal oversight of the State Medicaid Fraud Control Units. In order to receive the Federal grant funds necessary to sustain their operations, the units must submit an application for Federal assistance to the OIG on an annual basis.

State Survey and Certification of Health Care Providers and Suppliers

The objective of the State Survey and Certification of Health Care Providers and Suppliers program is to determine whether the providers and suppliers of health care services under the Medicaid program are in compliance with regulatory health and safety standards and conditions of participation. This program is administered in a manner similar to Medicaid and includes an approved State plan which addresses Federal requirements.

Even though the State Medicaid Fraud Control Units and State Survey and Certification of Health Care Providers and Suppliers have substantially less Federal expenditures than the Medicaid Assistance Program, they are clustered with Medicaid because these programs provide significant controls over the expenditures of Medicaid funds. It is unlikely that the expenditures for these two programs would be material to the Medicaid cluster; however, noncompliance with the requirements to administer these controls may be material.

II. PROGRAM PROCEDURES

The following paragraphs are intended to provide a high-level, overall description of how Medicaid generally operates. It is not practical to provide a complete description of program procedures because Medicaid operates under both Federal and State laws and regulations and States are afforded flexibility in program administration. Accordingly, the following paragraphs are not intended to be used in lieu of or as a substitute for the Federal and State laws and regulations applicable to this program.

Administration

The U.S. Department of Health and Human Services (HHS) Centers for Medicare and Medicaid Services (CMS) administers the Medicaid program in cooperation with State governments. The Medicaid program is jointly financed by the Federal and State governments and administered by the States. For purposes of this program, the term “State” includes the 50 States, the District of Columbia, and five U.S. territories: Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Medicaid operates as a vendor payment program, with States paying providers of medical services directly. Participating providers must accept the Medicaid reimbursement level as payment in full. Within broad Federal rules, each State decides eligible groups, types and range of services, payment levels for services, and administrative and operating procedures.

State Plans

States administer the Medicaid program under a State plan approved by CMS. The Medicaid State plan is a comprehensive written statement submitted by the State Medicaid agency describing the nature and scope of its Medicaid program. A State plan for Medicaid consists of preprinted material that covers the basic requirements, and individualized content that reflects the characteristics of each particular State’s program. The State plan is referenced to the applicable Federal regulation for each requirement and will also contain references to applicable State regulations.

The State plan contains all information necessary for CMS to determine whether the State plan can be approved to serve as a basis for determining the level of Federal financial participation in the State program. The State plan must specify a single State agency (hereinafter referred to as the “State Medicaid agency”) established or designated to administer or supervise the administration of the State plan. The State plan must also include a certification by the State Attorney General which cites the legal authority for the State Medicaid agency to determine eligibility.

The State plan also specifies the criteria for determining the validity of payments disbursed under the Medicaid program. This encompasses the system the State will use to ensure that payments are disbursed only to eligible providers for appropriately-priced services that are covered by the Medicaid program and provided to eligible beneficiaries. Payments must also be based on claims that are adequately supported by medical records, and payments must not be duplicated.

A State plan or plan amendment will be considered approved unless CMS sends the State written notice of disapproval or a request for additional information within 90 days after receipt of the State plan or plan amendment. Copies of the State plan are available from the State Medicaid agency.

Waivers

The State Medicaid agency may apply for a waiver of Federal requirements. Waivers are intended to provide the flexibility needed to enable States to try new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs of particular areas or groups of beneficiaries. Waivers allow exceptions to State plan requirements and permit a State to implement innovative programs or activities on a time-limited basis, and are subject to specific safeguards for the protection of beneficiaries and the program.

Actions that States may take if waivers are obtained include: (1) implement a primary care case-management system or a specialty physician system; (2) designate an entity to act as a central broker in assisting Medicaid beneficiaries to choose among competing health care plans; (3) share with beneficiaries (through the provision of additional services) cost-savings made possible through the beneficiaries’ use of more cost effective medical care; (4) limit beneficiaries’ choice of providers to providers that fully meet reimbursement, quality, and utilization standards, which are established under the State plan and are consistent with access, quality, and efficient and economical furnishing of care; (5) include as “medical assistance,” under its State plan, home and community-based services furnished to beneficiaries who would otherwise need inpatient care that is furnished in a hospital, skilled nursing facility (SNF), or intermediate care facility (ICF), and is reimbursable under the State plan; and, (6) impose a deduction, cost-sharing or similar charge of up to twice the “nominal charge” established under the State plan for outpatient services for certain nonemergency services. A State may also obtain a waiver of statutory requirements to provide an array of home and community-based services which may permit an individual to avoid institutionalization (42 CFR part 441 subpart G). Depending on the type of requirement being waived, a waiver may be effective for initial periods ranging from two to five years, with varying renewal periods. Copies of waivers are available from the State Medicaid agency.

Payments to States

Once CMS has approved a State plan and waivers, it makes quarterly grant awards to the State to cover the Federal share of Medicaid expenditures for services, training, and administration. The amount of the quarterly grant is determined on the basis of information submitted by the State Medicaid agency (in quarterly estimate and quarterly expenditure reporting). The grant award authorizes the State to draw Federal funds as needed to pay the Federal financial participation portion of qualified Medicaid expenditures. The HHS Payment Management System Division of Payment Management (PMS-DPM) in Rockville, Maryland, disburses Federal funds to States including funding under Medicaid. Currently, all States use a system developed by HHS called SMARTLINK to request funds on an as needed basis. States may use one of two payment mechanisms which are linked to SMARTLINK: (1) wire transfers through the Automated Clearinghouse in conjunction with the Federal Reserve Bank, which are settled the day after the request date, or (2) FEDWIRE transfers through the Department of the Treasury, which is a same day payment mechanism. The payment method is selected by the State and approved by the Department of the Treasury and HHS before payments are made through either mechanism. States report cash activity to PMS-DPM with a quarterly Cash Transactions Report (PMS-272).

State Expenditure Reporting

Thirty days after the end of the quarter, States electronically submit form CMS-64, *Quarterly Statement of Expenditures for the Medical Assistance Program*. The CMS-64 presents expenditures and recoveries and other items that reduce expenditures for the quarter and prior period expenditures. The amounts reported on the CMS-64 and its attachments must be actual expenditures for which all supporting documentation, in readily reviewable form, has been compiled and is available immediately at the time the claim is filed. States use the Medicaid Budget and Expenditure System to electronically submit the CMS-64 directly to CMS.

Eligibility

Eligibility for Medicaid is based on categorical (e.g., families and children, aged, blind, and disabled) and financial (e.g., income/resources) status. The States must provide services to mandatory categorically needy and other required special groups. States may provide coverage to members of optional groups and medically needy individuals (individuals who are eligible for Medicaid after deducting medical expenditures from their income). Eligibility criteria will be specified in the individual State plan.

Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the cash welfare program known as Aid for Dependent Children (AFDC) was repealed and replaced with block grants to States known as Temporary Assistance for Needy Families (TANF). Under Medicaid, children and parents who received AFDC were automatically enrolled in Medicaid. However, Medicaid for children and parents who would have met the State's old AFDC income and asset standards in place on July 16, 1996, has been preserved—whether or not these individuals are eligible for the new TANF system (Pub. L. No. 104-193).

States must provide limited Medicaid coverage for "qualified Medicare beneficiaries." These are aged and disabled persons who are receiving Medicare, whose income is below 100 percent of the Federal poverty level, and whose resources do not exceed twice the allowable amount under SSI (42 CFR section 407.40).

The State plan will specify if determinations of eligibility are made by agencies other than the State Medicaid agency and will define the relationships and respective responsibilities of the State Medicaid agency and the other agencies. The State plan must also provide that the State Medicaid agency will maintain individual records on each applicant and Medicaid beneficiary including date of application, date and basis for disposition, facts essential to determination of initial and continuing eligibility, provision of medical assistance, and basis for discontinuing assistance.

Services

Medicaid expenditures include medical assistance payments for eligible recipients for such services as hospitalization, prescription drugs, nursing home stays, outpatient hospital care, and physicians' services, and expenditures for administration and training. In order for a medical assistance payment to be considered valid, it must comply with the requirements of Title XIX, as amended, (42 USC 1396, *et seq.*) and implementing Federal regulations. Determinations of payment validity are made by individual States in accordance with approved State plans under broad Federal guidelines.

Some States have managed care arrangements under which the State enters into a contract with an entity, such as an insurance company, to arrange for medical services to be available for beneficiaries. The State pays a fixed rate per person (capitation rate) without regard to the actual medical services utilized by each beneficiary.

Also, Medicaid expenditures include administration and training, the State Survey and Certification Program, and State Medicaid Fraud Control Units.

Control Systems

Utilization Control and Program Integrity

The State plan must provide methods and procedures to safeguard against unnecessary utilization of care and services, including those provided by long-term care institutions. In addition, the State must have: (1) methods of criteria for identifying suspected fraud cases; (2) methods for investigating these cases; and, (3) procedures, developed in cooperation with legal authorities, for referring suspected fraud cases to law enforcement officials.

These requirements may be met by the State Medicaid agency assuming direct responsibility for assuring the requirements or met by contracting with a peer review organization (PRO) to perform such reviews. The reviewer must establish and use written criteria for evaluating the appropriateness and quality of Medicaid services.

The State Medicaid agency must have procedures for the ongoing post-payment review, on a sample basis, for the necessity, quality, and timeliness of Medicaid services. The State Medicaid agency may conduct this review directly or may contract with a PRO.

Suspected fraud identified by utilization control and program integrity should be referred to the State Medicaid Fraud Control Units.

Inpatient Hospital and Long-Term Care Facility Audits

States are required to establish as part of the State plan standards and methodology for reimbursing inpatient hospital and long-term care facilities based on payment rates that represent the cost to efficiently and economically operate such facilities and provide Medicaid services. The State Medicaid agency must provide for the filing of uniform cost reports by each participating provider. These cost reports are used by the State Medicaid agency to aid in the establishment of payment rates. The State Medicaid agency must provide for periodic audits of the financial and statistical records of the participating providers. Such audits could include desk audits of cost reports in addition to field audits. These audits are an important control for the State Medicaid agency in ensuring that established payment rates are proper.

ADP Risk Analyses and System Security Reviews

The Medicaid program is highly dependent on extensive and complex computer systems that include controls for ensuring the proper payment of Medicaid benefits. States are required to establish a security plan for ADP systems that include policies and procedures to address: (1) physical security of ADP resources; (2) equipment security to protect equipment from theft and unauthorized use; (3) software and data security; (4) telecommunications security; (5) personnel security; (6) contingency plans to meet critical processing needs in the event of short- or long-term interruption of service; (7) emergency preparedness; and, (8) designation of an agency ADP security manager.

State agencies must establish and maintain a program for conducting periodic risk analyses to ensure appropriate, cost effective safeguards are incorporated into new and existing systems. State agencies must perform risk analyses whenever significant system changes occur. On a biennial basis State agencies shall review the ADP system security of installations involved in the administration of HHS programs. At a minimum, the reviews shall include an evaluation of physical and data security operating procedures, and personnel practices.

Medicaid Management Information System (MMIS)

The MMIS is the mechanized Medicaid benefit claims processing and information retrieval system that States are required to have, unless this requirement is waived by the Secretary of HHS. HHS provides general systems guidelines (42 CFR sections 433.110 through 433.131) but it does not provide detailed system requirements or specifications for States to use in the development of MMIS systems. As a result, MMIS systems will vary from State to State. The system may be maintained and operated by the State or a contractor.

The MMIS is normally used to process payments for most medical assistance services and normally includes edits and controls which identify unusual items for follow up by the utilization

control and program integrity unit. However, the State may use systems other than MMIS to process medical assistance payments. In many cases the operation of the MMIS is contracted out to a private contractor. The State plan will describe the administration of each State's claims processing system.

Generally, the MMIS does not process claims from State agencies (e.g., State operated intermediate care facility for the mentally retarded (ICF/MR)) and certain selected types of claims. The claims payments which are not processed through MMIS may be material to the Medicaid program.

Medicaid Eligibility Quality Control System (MEQC)

Each State is required to operate a MEQC system in accordance with requirements specified by CMS. This CMS-approved system redetermines eligibility for individual sampled cases and provides national and State measures of the accuracy of eligibility and benefit amount determinations (commonly referred to as "payment accuracy"), including both underpayments and overpayments, and of the correctness of decisions to deny or terminate benefits. The MEQC system reviews the determinations of beneficiary eligibility made by a State agency, or its designee, and uses statistical sampling methods to select claims for review and project the number and dollar impact of payments to ineligible beneficiaries (42 CFR sections 431.800 through 431.865).

Federal Oversight and Compliance Mechanisms

CMS oversees State operations through its organization consisting of a headquarters and 10 regional offices.

CMS program oversight includes budget review, reviews of financial and program reports, and on-site reviews which are normally targeted to cover a specific area of concern. CMS conveys areas of national and local concerns to the States through the regions. Technical assistance is used extensively to promote improvements in State operation of the program but enforcement mechanisms are available. CMS considers the single audit as an important internal control in its monitoring of States.

Federal program oversight, because of its targeted nature, should not be used as a substitute for audit evidence gained through transaction testing.

Source of Governing Requirements

The auditor is expected to use the applicable laws and regulations (including the applicable State-approved plan) when auditing this program. The Federal law that authorizes these programs is Title XIX of the Social Security Act (Title XIX), enacted in 1965 and subsequently amended (42 USC 1396, *et seq.*). The Federal regulations applicable to the Medicaid program are found in 42 CFR parts 430 through 456, 1002, and 1007. Other applicable HHS regulations are contained in 45 CFR part 16, subpart C, and in 45 CFR parts 75, 80, 81, 84 and 91.

Availability of Other Information

The HHS OIG issues fraud alerts, some of which relate to the Medicaid program. These alerts are available on the Internet from the HHS OIG Home Page, Special Fraud Alerts section (<http://oig.hhs.gov/frdalrt/index.htm>).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

General Audit Approach for Medicaid Payments

To be allowable, Medicaid costs for medical services must be: (1) covered by the State plan and waivers; (2) for an allowable service rendered (including supported by medical records or other evidence indicating that the service was actually provided and consistent with the medical diagnosis); (3) properly coded; and, (4) paid at the rate allowed by the State plan. Additionally, Medicaid costs must be net of applicable credits (e.g., insurance, recoveries from other third parties who are responsible for covering the Medicaid costs, and drug rebates), paid to eligible providers, and only provided on behalf of eligible individuals.

Due to the complexity of Medicaid program operations, it is unlikely the auditor will be able to support an opinion that Medicaid expenditures are in compliance with applicable laws and regulations (e.g., are allowable under the State plan) without relying upon the systems and internal controls. Examples of complexities include:

- Dependence upon large and complex ADP systems to process the large volume of Medicaid transactions.
- Medical services are provided directly to an eligible beneficiary, normally without prior approval by the State.
- Medical service providers normally determine the scope and medical necessity of the services.
- Notice to the State that service is rendered is after-the-fact when a bill is sent.
- Payments systems do not include a review of original detailed documentation supporting the claim prior to payment.
- Complex billing charge structures and payment rates for medical services, including significance of proper coding of services (e.g., billing by diagnosis related groups (DRG)).
- Different types of Medicaid payments (e.g., inpatient hospital, physicians, prescription drugs and drug rebates).

Medicaid has required control systems that should aid the auditor in obtaining sufficient audit evidence for Medicaid expenditures. These control systems are discussed in the preceding Program Procedures under Control Systems and are: (1) utilization control and program integrity; (2) inpatient hospital and long term care facility audits; (3) ADP risk analyses and system

security reviews (e.g., of the MMIS); and (4) the MMIS normally includes edits and controls that identify unusual items for follow up by the utilization control and program integrity function. The first three are generally performed by specialists retained by the State Medicaid agency. The following table indicates the major types of Medicaid payments to which these controls will likely relate:

Type of Medicaid Payment	1	2	3	4
Inpatient Hospital	X	X	X	X
Physicians (including dental)	X		X	X
Prescription Drugs (net of rebates)	X		X	X
Institutional Long-Term Care	X	X	X	X

Each of the above Medicaid payment types are tested for compliance with applicable laws and regulations under either "A. Activities Allowed or Unallowed;" "B. Allowable Costs/Cost Principles;" or "E. Eligibility." Based upon the assessed level of control risk, the auditor should design appropriate tests of the allowability of Medicaid payments. Testing likely will include tests of medical records, in which case the auditor should consider the need for assistance of specialists. The auditor may consider using the same specialists used by the State.

The auditor should consider the following in planning and performing tests of controls and compliance:

1. Section "N. Special Tests and Provisions," includes required internal control, which are compliance requirements (i.e., controls (1), (2), and (3) above), and audit objectives and procedures for each. The audit procedures will entail tests of work performed by the State Medicaid agency.
2. Tests of compliance with laws and regulations relating to Sections A, B, and E below, and the compliance requirements enumerated in Section N should be coordinated.

A. Activities Allowed or Unallowed

1. Funds can only be used for Medicaid benefit payments (as specified in the State plan, Federal regulations, or an approved waiver), expenditures for administration and training, expenditures for the State Survey and Certification Program, and expenditures for State Medicaid Fraud Control Units (42 CFR sections 435.10, 440.210, 440.220, and 440.180).
2. *Case Management Services* - The State plan may provide for case management services as an optional medical assistance service. The term case management services means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

Medicaid case management services are divided into two separate categories:

Administrative case management - Services must be identifiable with Title XIX benefit (e.g., outreach services provided by public school districts to Medicaid recipients).

Medical/Targeted case management - Services must be provided to an eligible Medicaid recipient. Services do not have to be specifically medical in nature and can include securing shelter, personal needs, etc. (e.g., services provided by community mental health boards, county offices of aging).

Case management services is an area of risk because of the high growth of expenditures, the relative newness of the provision that allows these expenditures to be claimed, and prior experience which indicates problems with the documentation of case management expenditures.

With the exception of case management services provided through capitation (a process in which payment is made on a per beneficiary basis) or prepaid health plans, Federal regulations typically require the following documentation for case management services: date of service; name of recipient; name of provider agency and person providing the service; nature, extent, or units of service; and, place of service (Pub. L. No. 99-272, Section 9508; 42 CFR part 434).

3. *Managed Care* - A State may obtain a waiver of statutory requirements in order to develop a system that more effectively addresses the health care needs of its population. For example, a waiver may involve the use of a program of managed care for selected elements of the client population or allow the use of program funds to serve specified populations that would be otherwise ineligible (Sections 1115 and 1915 of the Social Security Act). Managed care providers must be eligible to participate in the program at the time services are rendered, payments to managed care plans should only be for eligible clients for the proper period, and the capitation payment should be properly calculated. Medicaid medical services payments (e.g., hospital and doctors charges) should not be made for services that are covered by managed care. States should ensure that capitated payments to providers are discontinued when a beneficiary is no longer enrolled for services. Requirements related to beneficiaries' access to managed care services are covered under N.6., Special Tests and Provisions, Managed Care.
4. *Medicaid Health Insurance Premiums* - A State may enroll certain Medicare-eligible recipients under Medicare Part B and pay the premium, deductibles, cost sharing, and other charges (42 CFR section 431.625).

5. *Disproportionate Share Hospital* - Federal financial participation is available for aggregate payments to hospitals that serve a disproportionate number of low income patients with special needs. The State plan must specifically define a disproportionate share hospital and the method of calculating the rate for these hospitals. Specific limits for the total disproportionate share hospital payments for the State and the individual hospitals are contained in the legislation (Section 1923 of the Social Security Act and 42 USC 1396(r)).
6. *Home and Community-Based Services* - A State may obtain a waiver of statutory requirements to provide an array of home and community-based services which may permit an individual to avoid institutionalization (42 CFR part 441 subpart G). The HHS OIG has issued a special fraud alert concerning home health care. Problems noted include cost report frauds, billing for excessive services or services not rendered, and use of unlicensed staff. The full alert was published in the *Federal Register* on August 10, 1995, (page 40847) and is available on the Internet from the HHS OIG Home Page, Special Fraud Alerts section (<http://oig.hhs.gov/frdalrt/index.htm>).

B. Allowable Costs/Cost Principles

Recoveries, Refunds, and Rebates (Costs must be the net of all applicable credits)

1. States must have a system to identify medical services that are the legal obligation of third parties, such as private health or accident insurers. Such third party resources should be exhausted prior to paying claims with program funds. Where a third party liability is established after the claim is paid, reimbursement from the third party should be sought (42 CFR sections 433.135 through 433.154).
2. The State is required to credit the Medicaid program for (1) State warrants that are canceled and uncashed checks beyond 180 days of issuance (escheated warrants) and (2) overpayments made to providers of medical services within specified time frames. In most cases, the State must refund provider overpayments to the Federal Government within 60 days of identification of the overpayment, regardless of whether the overpayment was collected from the provider (42 CFR sections 433.300 through 433.320 and 433.40).
3. Section 1903 (w)(1) of the Social Security Act (as amended by Pub. L. No. 102-234) provides that, effective January 1, 1992, before calculating the amount of Federal financial participation, certain revenues received by a State will be deducted from the State's medical assistance expenditures. The revenues to be deducted are (1) donations made by health providers and entities related to providers (except for *bona fide* donations and, subject to a limitation, donations made by providers for the direct costs of out-stationed eligibility workers); and (2) impermissible health care-related taxes that exceed a specified limit (42 USC 1396(b)(w) and 42 CFR section 433.57).
"Provider related donations" are any donations or other voluntary payments (in-cash or in-kind) made directly or indirectly to a State or unit of local government

by (1) a health care provider, (2) an entity related to a health care provider, or (3) an entity providing goods or services under the State plan and paid as administrative expenses. "Bona fide provider-related donations" are donations that have no direct or indirect relationship to payments made under Title XIX (42 USC 1396, *et seq.*) to (1) that provider, (2) providers furnishing the same class of items and services as that provider, or (3) any related entity (42 CFR sections 433.58(d) and 433.66(b)).

Permissible health care-related taxes are those taxes which are broad-based taxes, uniformly applied to a class of health care items, services, or providers, and which do not hold a taxpayer harmless for the costs of the tax, or a tax program for which CMS has granted a waiver. Health care-related taxes that do not meet these requirements are impermissible health care-related taxes (42 CFR section 433.68(b)).

The provisions of Pub. L. No. 102-234 apply to all 50 States and the District of Columbia, except those States whose entire Medicaid program is operated under a waiver granted under section 1115 of the Social Security Act (42 CFR part 433; *Federal Register* published August 13, 1993, 58 FR 43156-43183).

4. Section 1927 of the Social Security Act allows States to receive rebates for drug purchases the same as other payers receive. Drug manufacturers are required to provide a listing to CMS of all covered outpatient drugs and, on a quarterly basis, are required to provide their average manufacturer's price and their best prices for each covered outpatient drug. Based upon these data, CMS calculates a unit rebate amount for each drug which it then provides to States. No later than 60 days after the end of the quarter, the State Medicaid agency must provide to manufacturers drug utilization data. Within 30 days of receipt of the utilization data from the State, the manufacturers are required to pay the rebate or provide the State with written notice of disputed items not paid because of discrepancies found.

E. Eligibility

1. Eligibility for Individuals

The State Medicaid agency or its designee is required to determine client eligibility in accordance with eligibility requirements defined in the approved State plan (42 CFR section 431.10). States have a high degree of flexibility in designating who will determine eligibility.

The State is required to operate a MEQC system in accordance with requirements specified by CMS. The MEQC system reviews the determinations of beneficiary eligibility made by State Medicaid agencies, or their designees,, and uses statistical sampling methods to select claims for review and project the number and dollar impact of incorrect payments to ineligible beneficiaries (42 CFR sections 431.800 through 431.865).

As discussed in the General Audit Approach for Medicaid Payments, the auditor will likely combine Activities Allowed or Unallowed, Allowable Costs/Cost Principles, and Eligibility testing. Therefore, compliance requirements related to amounts provided to or on behalf of eligibles were combined with Activities Allowed or Unallowed.

2. **Eligibility of Group of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients** - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The State is required to pay part of the costs of providing health care to the poor and part of the costs of administering the program. Different State participation rates apply to medical assistance payments. There are also different Federal financial participation rates for the different types of costs incurred in administering the Medicaid program, such as administration, family planning, training, computer, and other costs (42 CFR sections 433.10 and 433.15). The auditor should refer to the State plan for the matching rates.

2. Level of Effort

A State waiver may contain a level of effort requirement.

3. Earmarking

A State waiver may contain an earmarking requirement.

L. Reporting

1. Financial Reporting

- a. *SF-269, Financial Status Report* - Not Applicable
- b. *SF-270, Request for Advance or Reimbursement* - Not Applicable
- c. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. *SF-272, Federal Cash Transactions Report* - Not Applicable
- e. *CMS-64, Quarterly Statement of Expenditures for the Medical Assistance Program (OMB No. 0938-0067)* - Required to be used in lieu of *SF-269, Financial Status Report* and is required to be prepared quarterly and

submitted electronically to CMS within 30 days after the end of the quarter.

- f. *PMS-272, Quarterly Cash Transactions Report (OMB No. 0937-0200)* - Required in lieu of the Federal Cash Transaction Report (SF-272).

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests And Provisions

1. Utilization Control and Program Integrity

Compliance Requirements - The State plan must provide methods and procedures to safeguard against unnecessary utilization of care and services, including long-term care institutions. In addition, the State must have: (1) methods or criteria for identifying suspected fraud cases; (2) methods for investigating these cases; and, (3) procedures, developed in cooperation with legal authorities, for referring suspected fraud cases to law enforcement officials (42 CFR parts 455, 456, and 1002).

Suspected fraud should be referred to the State Medicaid Fraud Control Units (42 CFR part 1007).

The State Medicaid agency must establish and use written criteria for evaluating the appropriateness and quality of Medicaid services. The agency must have procedures for the ongoing post-payment review, on a sample basis, of the need for and the quality and timeliness of Medicaid services. The State Medicaid agency may conduct this review directly or may contract with a PRO.

Audit Objectives - To determine whether the State has established and implemented procedures to: (1) safeguard against unnecessary utilization of care and services, including long term care institutions; (2) identify suspected fraud cases; (3) investigate these cases; and, (4) refer those cases with sufficient evidence of suspected fraud cases to law enforcement officials.

Suggested Audit Procedures

- a. Obtain and evaluate the adequacy of the procedures used by the State Medicaid agency to conduct utilization reviews and identifying suspected fraud.
- (1) Consider the qualifications of the personnel conducting the reviews and identifying suspected fraud. Ascertain that the individuals possess the necessary skill or knowledge by considering the following: (1) professional certification, license, or specialized training; (2) the reputation and standing of licensed medical professionals in the view of peers; and, (3) experience in the type of tasks to be performed.

- (2) Consider if the personnel performing the utilization review and identifying suspected fraud are sufficiently organized outside the control of other Medicaid operations to objectively perform their function.
 - (3) Ascertain if the sampling plan implemented by the State Medicaid agency or the PRO was properly designed and executed.
- b. Test a sample of the cases examined by State Medicaid agency or the PRO and ascertain if such examinations were in accordance with the agency's procedures.
 - c. Test a sample of the identified suspected cases of fraud and ascertain if the agency took appropriate steps to investigate and, if appropriate, make a referral.
 - d. Based on the above procedures, consider the degree of reliance that can be placed on the utilization review and identification of suspected fraud in performing tests under Sections A, B, and E.

2. Inpatient Hospital and Long-Term Care Facility Audits

Compliance Requirement - The State Medicaid agency pays for inpatient hospital services and long-term care facility services through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated providers. The State Medicaid agency must provide for the filing of uniform cost reports for each participating provider. These cost reports are used to establish payment rates. The State Medicaid agency must provide for the periodic audits of financial and statistical records of participating providers. The specific audit requirements will be established by the State Plan (42 CFR section 447.253).

Audit Objectives - To determine whether the State Medicaid agency performed inpatient hospital and long-term care facility audits as required.

Suggested Audit Procedures

- a. Review the State Plan and State Medicaid agency operating procedures and document the types of audits performed (e.g., desk audits, field audits), the methodology for determining when audits are conducted, and the objectives and procedures of the audits.
- b. Through examination of documentation, ascertain that the sampling plan was carried out as planned.
- c. Select a sample of audits and ascertain if the audits were in compliance with the State Medicaid agency's audit procedures.

- d. Based on the above, consider the degree of reliance that can be placed on the inpatient hospital and long term-care facility audits in performing tests under Sections A, B, and E.

3. ADP Risk Analysis and System Security Review

Compliance Requirement - State agencies must establish and maintain a program for conducting periodic risk analyses to ensure that appropriate, cost effective safeguards are incorporated into new and existing systems. State agencies must perform risk analyses whenever significant system changes occur. State agencies shall review the ADP system security installations involved in the administration of HHS programs on a biennial basis. At a minimum, the reviews shall include an evaluation of physical and data security operating procedures, and personnel practices. The State agency shall maintain reports on its biennial ADP system security reviews, together with pertinent supporting documentation, for HHS onsite reviews (45 CFR section 95.621).

Audit Objective - To determine whether the State Medicaid agency has performed the required ADP risk analyses and system security reviews.

Suggested Audit Procedures

- a. Review the State Medicaid agency's policies and procedures and document the frequency, timing, and scope of ADP security reviews. This should include any reviews following Statement on Auditing Standards No. 70 (SAS 70) which may have been performed on outside processors.
- b. Consider the appropriateness and extent of reliance on such reviews based on the qualifications of the personnel performing the risk analyses and security reviews and their organizational independence from the ADP systems.
- c. Review the work performed during the most recent risk analysis and security review.
- d. Based on the above, consider the degree of reliance that can be placed on the ADP Risk Analysis and System Security Reviews in performing tests under Sections A, B, and E.

4. Provider Eligibility

Compliance Requirement - In order to receive Medicaid payments, providers of medical services furnishing services must be licensed in accordance with Federal, State, and local laws and regulations to participate in the Medicaid program (42 CFR sections 431.107 and 447.10; and section 1902(a)(9) of the Social Security Act) and the providers must make certain disclosures to the State (42 CFR part 455, subpart B (sections 455.100 through 455.106)).

Audit Objective - To determine whether providers of medical services are licensed to participate in the Medicaid program in accordance with Federal, State, and local laws and regulations, and whether the providers have made the required disclosures to the State.

Suggested Audit Procedures

- a. Obtain an understanding of the State plan's provisions for licensing and entering into agreements with providers.
- b. Select a sample of providers receiving payments and ascertain if:
 - (1) The provider is licensed in accordance with the State Plan.
 - (2) The agreement with the provider complies with the requirements of the State Plan, including the disclosure requirements of 42 CFR 455 subpart B.

5. Provider Health and Safety Standards

Compliance Requirement - Providers must meet the prescribed health and safety standards for hospital, nursing facilities, and ICF/MR (42 CFR part 442). The standards may be modified in the State plan.

Audit Objective - To determine whether the State ensures that hospitals, nursing facilities, and ICF/MR that serve Medicaid patients meet the prescribed health and safety standards.

Suggested Audit Procedures

- a. Obtain an understanding of the State Plan provisions which ensure that payments are made only to institutions which meet prescribed health and safety standards.
- b. Select a sample of payments for each provider type (i.e., hospitals, nursing facilities, and ICF/MR) and ascertain if the State Medicaid agency has documentation that the provider has met the prescribed health and safety standards.

6. Managed Care

Compliance Requirement - A State may obtain a waiver of statutory requirements in order to develop a system that more effectively addresses the health care needs of its population. A waiver may involve the use of a program of managed care for selected elements of the client population or allow the use of program funds to serve specified populations that would be otherwise ineligible (Sections 1115 and 1915 of the Social Security Act).

Audit Objective - To determine whether the State is operating managed care in compliance with the approved State plan waiver.

Suggested Audit Procedures

- a. Obtain an understanding of the State plan's managed care waiver.
- b. Perform tests to ascertain if the State has a system to handle beneficiary complaints of not receiving necessary care and provider complaints of not receiving payments for services provided to Medicaid recipients.
- c. Perform tests to ascertain if the State has a system to ensure beneficiaries have adequate access to health care from managed care organizations which are being paid premiums on the beneficiaries' behalf.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.914 HIV EMERGENCY RELIEF PROJECT GRANTS****I. PROGRAM OBJECTIVES**

The objective of this program is to improve access to a comprehensive continuum of high-quality community-based primary medical care and support services in metropolitan areas that are disproportionately affected by the incidence of Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS). The statute refers to both persons infected with HIV and those who have clinically defined AIDS. These terms are used interchangeably in this compliance supplement but refer to this total universe of eligible individuals.

Emergency financial assistance, in the form of *formula-based funding* and supplemental *project-based funding*, is provided to eligible metropolitan areas (EMAs) to develop, organize, and operate health and support services programs for infected individuals and their care givers. The supplemental grants are discretionary awards and are awarded, following competition, to EMAs that demonstrate severe need beyond that met through the formula award. They must also demonstrate the ability to use the supplemental amounts quickly and cost-effectively. Other criteria, contained in annual application guidance documents, may also apply. All EMAs currently receiving formula assistance are also receiving supplemental assistance.

II. PROGRAM PROCEDURES**Administration**

The Health Resources and Services Administration (HRSA), a component of the Department of Health and Human Services, administers the HIV emergency relief programs. HRSA uses data reported to and confirmed by the Centers for Disease Control and Prevention (CDC) to determine eligibility (i.e., any metropolitan area for which there has been reported to CDC a cumulative total of more than 2,000 cases of AIDS for the most recent five calendar years for which data are available) and to establish the formula for allocation of funds. A metropolitan area is not eligible if it does not have an overall population of 500,000 or more unless it was eligible for FY 1995 or any prior fiscal year. Geographic boundaries are those that were in effect for FY 1994. A metropolitan area that was eligible in FY 1996 is an eligible area for FY 1997 and each subsequent fiscal year (42 USC 300ff-11(c) and (d)).

At least fifty percent of the appropriated amount (and an amount for subsequent adjustment, if necessary, to ensure funding levels consistent with the baseline year, i.e., FY 1995) is made available for the EMAs' formula allocation and the remainder is retained by HRSA for award as discretionary supplemental "project" assistance on the basis of "severe need" and other factors. Since FY 1998, funding of the EMAs is on the basis of a single application and a combined award is made.

Funds are made available to the chief elected official of the city or urban county that administers the public health agency that provides outpatient and ambulatory services to the greatest number of individuals with AIDS in the EMA in accordance with statutory requirements and program

guidelines. Day-to-day responsibility for the grant is ordinarily delegated to the jurisdiction's public health department, and some administrative functions may be outsourced to a private entity. The chief elected official of the EMA is also required to establish or designate an AIDS health services planning council, which carries out a planning process, coordinating with other State, local and private planning and service organizations, and establishes the priorities for allocating funds.

Consistent with funding and service priorities established through the public planning process, the EMA uses the funds to provide direct assistance to public entities or private non-profit or for-profit entities to deliver or enhance HIV/AIDS-related outpatient and ambulatory health and support services, including case management, substance abuse treatment and mental health treatment; comprehensive treatment services, including treatment, education, and prophylactic treatment for opportunistic infections; inpatient case management services that prevent unnecessary hospitalization or that expedite discharge, as medically appropriate, from inpatient facilities; and, within established limits, for associated administrative activities. These administrative activities include EMA oversight of service provider performance and adherence to their subgrant or contractual obligations. Most of these service providers are non-profit organizations.

Source of Governing Requirements

This program is authorized under Title I of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, Pub. L. No. 101-381, as amended, which is codified at 42 USC 300ff-11 - 300ff-17. There are no program regulations specific to this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Funds may be used to provide medical treatment and support services for individuals with HIV/AIDS (42 USC 300ff-14).
2. Consistent with planning council priorities, funds may be used to deliver or enhance the following HIV/AIDS-related services: (a) outpatient and ambulatory health and support services, including case management, substance abuse treatment and mental health treatment; (b) comprehensive treatment services, including treatment education, and prophylactic treatment for opportunistic infections, for individuals and families with HIV disease; (c) inpatient case management services that prevent unnecessary hospitalization or expedite discharge, as medically appropriate, from inpatient facilities; and (d) outreach activities that are intended to identify individuals with HIV disease who know their status and are not receiving HIV-related services (42 USC 300ff-14(b)(1)).

3. Funds may be used for the operation of an HIV health services planning council established by the grantee, including: staff support to the council; costs incurred by members of the council as a result of participation in meetings and other activities, including out-of-pocket expenses (e.g., transportation and meals); costs associated with conducting needs assessment, plan development and publicizing council activities; and implementation of grievance procedures (42 USC 300ff-12(b)).
4. The EMA may use funds for routine grant administration and monitoring activities, including, but not limited to, the development of applications under this program, the receipt and disbursement of program funds, the establishment of accounting systems, the preparation of required programmatic and financial reports, and for all activities associated with the grantee's selection, award, and administration of contracts under the grant (42 USC 300ff-14(f)(2)).
5. Funds may be used for service provider (also referred to as first-line entities, including first-tier contractors) administrative activities, including normal overhead, management and oversight of specific projects, and other program support, such as quality control and quality assurance (42 USC 300ff-14(f)(3)).
6. The EMA may use funds to support program activities that are not service-oriented or administrative in nature, e.g., capacity building, technical assistance, program evaluation, and assessment of service delivery patterns, if they are established as priorities by the planning council and meet the requirements of 42 USC 300ff-12(b)(4) (A) and (E).
7. Funds may be used for outreach programs that have as their principal purpose identifying people with HIV disease so they become aware of and may be enrolled in care and treatment services, and informing low-income individuals with HIV disease of the availability of services. Funds may not be used for programs whose primary purpose is to target the general public to increase broad public awareness about HIV services, or programs that exclusively promote HIV counseling and testing and/or prevention education (42 USC 300ff-15(a)(7)(C)).
8. Funds may not be used to make payment for any item or service if payment has already been made or can reasonably be expected to be made under any State compensation program, under an insurance policy or any Federal or State health benefits program, or by an entity that provides health services on a pre-paid basis (42 USC 300ff-15(a)(6)).
9. Funds may not be used to purchase or improve land or to purchase, construct or make permanent improvement to any building. Minor remodeling is allowed (42 USC 300ff-14(g)).
10. Funds may not be used to make cash payments to recipients of services; however, vouchers which may be exchanged only for a specific commodity or service, such

as food or transportation or similar programs, may be provided where direct provision of the service is not possible or effective (42 USC 300ff-14(g)).

11. Funds may not be used to provide individuals with hypodermic needles or syringes (42 USC 300ff-1).
12. Funds may not be used for programs or to develop materials designed to promote or encourage intravenous drug use or sexual activity (42 USC 300ff-78).

E. Eligibility

1. Eligibility for Individuals

Eligible beneficiaries are individuals or families of individuals with HIV/AIDS. To the maximum extent practicable, services are to be provided to eligible individuals regardless of their ability to pay for the services and their current or past health condition. Services to non-infected individuals must have, at least, an indirect benefit to a person with HIV/AIDS (42 USC 300ff-14(b) and 15(a)(7)(A)).

2. Eligibility for Groups of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility of Subrecipients

The EMA may make funds available to public (including Department of Veterans Affairs' facilities) or private non-profit entities, or to private for-profit entities if they are the only available providers of quality HIV care in the area. Eligible subrecipients include hospitals, community-based organizations, hospices, ambulatory care facilities, community health centers, migrant health centers, and homeless health centers substance abuse treatment and mental health programs (42 USC 300ff-14(b)(2)).

G. Matching, Level of Effort, Earmarking

1. Matching - Not applicable

2.1 Level of Effort - *Maintenance of Effort*

Each political subdivision within the metropolitan area is required to maintain its level of expenditures for HIV-related services to individuals with HIV disease at a level equal to its level of such expenditures for the preceding fiscal year. Political subdivisions within the EMA may not use funds received under the HIV grants to maintain the required level of HIV/AIDS-related services (42 USC 300ff-15(a)(1)(B)) and (C)).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

- a. For the purpose of providing health and support services to women, youth, infants, and children with HIV disease, including treatment measures to prevent the perinatal transmission of HIV, an EMA shall use for services to each of these populations an amount not less than the percentage of grant funds made available in a fiscal year constituted by the ratio of the population involved (women, youth, infants, or children) in such area with AIDS, to the metropolitan area's overall population with AIDS (42 USC 300ff-14(b)(4)).
- b. Not more than five percent of the amounts awarded to the EMA may be used for administration at that level. Program support and planning council support are not considered administration for purposes of this limitation. If the EMA contracts with a third party for the performance of any part of its administrative activities, the five percent limitation applies to the combined total of administrative expenditures by the EMA and the contractor(s) (42 USC 300ff-14(f)).
- c. Not more than 10 percent, *in the aggregate*, of amounts allocated by the EMA to first-line entities may be used for administrative expenses (42 USC 300ff-14(f)).
- d. An EMA shall establish a quality management program to determine whether the services are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infection and, as applicable, to develop strategies for bringing these services into conformity with the guidelines. Funds for this purpose may not exceed the lesser of: 5 percent of the amount received under the grant, or \$3,000,000 (42 USC 300ff-14 (c)).

H. Period of Availability of Federal Funds

Funds are available for the budget period designated on the Notice of Grant Award. Funds carried forward from prior years may not be used for administration. HRSA may reduce the following year's award by the amount of unobligated grant funds reported by the EMA in its *Financial Status Report* (42 USC 300ff-13(a)(3)(E)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable

- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS 272-E, *Major Program Statement*.

2. Performance Reporting - Not Applicable

3. Special Reporting

Annual Administrative Report (AAR) (OMB No.0915-0166). Aggregate provider-level data required from each direct service provider. These reports are currently provided to the EMA electronically or in hard copy and may be submitted to HRSA in a similar manner (e.g., the subrecipient (service provider) submits the report to the pass-through entity (EMA), which in turn submits the reports to the Federal agency (HRSA)). The reporting entity has the option of completing the reports on the basis of "all clients receiving a service eligible for Title I (and Title II--HIV Care Formula Grants, 93.917) funding" or "only clients receiving service funded with Title I or II funding." If those "funded" is the reporting basis, the reporting entity would be expected to have a tracking system to develop this data.

Key Line Items across an EMA's reporting entities are:

- a. Part 4: Client Information:
 - (1) Number of clients (unduplicated)
 - (2) Number of new clients served
- b. Part 5, Services Provided/Clients Served - Number of visits for each of the following types of office-based health care:
 - (1) Medical care
 - (2) Dental care
 - (3) Mental health services
 - (4) Substance abuse services
 - (5) Rehabilitation services
 - (6) Face-to-face case management encounters
- c. Part 6, Fiscal Information - Total HIV services funding by source:
 - (1) Title I CARE
 - (2) Title II CARE
 - (3) Other CARE Act funding
 - (4) Other Federal funding (exclusive of Medicare and Medicaid)

M. Subrecipient Monitoring

EMAs are required to establish policies in the areas of verification and documentation of client eligibility, require that service providers follow those policies, and oversee the implementation by service providers (42 USC 300ff-14(b) and (e)(2)(B)).

IV. OTHER INFORMATION

The CFDA number for this program was listed in the 2000 Supplement as CFDA 93.915. This is only a change in the CFDA numbering and not changes in the basic program. Funds expended under both CFDA numbers should be considered one program, i.e., a cluster, for determining Type A programs. Also, as part of the Type A program risk assessment under OMB Circular A-133, the program should be considered as audited in the past two years when either CFDA 93.914, 93.915, or the cluster were audited as a major program.

The Schedule of Expenditures of Federal Awards should reflect separately the amount expended under each CFDA.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CFDA 93.917 HIV Care Formula Grants

I. PROGRAM OBJECTIVES

The objective of this program is to assist States and Territories in developing or enhancing access to a comprehensive continuum of high-quality, community-based care for low income individuals with Human Immunodeficiency Virus (HIV) disease and their families.

Comprehensive care includes primary medical care; access to Food and Drug Administration (FDA) approved drug therapies; supportive services that enable individuals to access and remain in primary care; and related support services that promote health and enhance the quality of life. These objectives may be accomplished through provision of services by the State, HIV care consortia in a home or community setting, or by paying health insurance premiums that would not otherwise be available to ensure continuity of care.

II. PROGRAM PROCEDURES

Administration and Services

Grants are awarded annually, on a formula basis, to all 50 States, the District of Columbia, Puerto Rico, and Territories of the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands following submission of an application to and approval by the HIV/Acquired Immunodeficiency Syndrome (AIDS) Bureau, Health Resources and Services Administration (HRSA), a component of the Department of Health and Human Services. The responsible State agency, usually the State health department, is designated by the Governor.

The application addresses how the State plans to address each of the five specified program components: (1) HIV care consortia; (2) home and community-based care; (3) health insurance continuation program; (4) provision of treatments; and (5) State direct services. This includes the State's plans for the AIDS Drug Assistance Program (ADAP). ADAP is earmarked funding provided to the State as a separate amount in addition to the base formula grant amount, which includes supplemental funding.

States may use a variety of service delivery mechanisms. States may provide some or all services directly, or may enter into agreements with local HIV care consortia, associations of public and non-profit health care and support service providers, and community-based organizations that plan, develop, and deliver services for People Living With HIV (PLWH). The State also may delegate some of its authority to monitor provider agreements to a "lead agency" (fiscal agent) within the consortium, with specific responsibilities contained in a formal agreement between the State and that agency.

Source of Governing Requirements

The HIV CARE formula grant program is authorized under Title II of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, as amended, which is codified at 42 USC 300ff-21 through 300ff-28. There are no specific program regulations.

Availability of Other Information

Further information about this program is available on the Internet at www.hab.hrsa.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look first to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Activities Allowed

- a. Funds may be used to provide outpatient and ambulatory health services, including case management services; medical, nursing services, substance abuse treatment, mental health treatment, and dental care services; diagnostics; monitoring; prophylactic treatment for opportunistic infections; treatment education to take place in the context of health care delivery; medical follow-up services; mental health, developmental, and rehabilitation services; home health and hospice care, whether such services are provided directly by the State or by eligible consortia or other service providers under agreement with the State (42 USC 300ff-22(1) and 300ff-23(a)(2)(A)).
- b. Funds may be used for support services, such as transportation services, attendant care, homemaker services, day or respite care, benefits advocacy, advocacy services provided through public and non-profit private entities, and services that are incidental to the provision of services for PLWH, including nutrition services, housing referral services, and child welfare and family services (including foster care and adoption services) whether such services are provided directly by the State or by eligible consortia or other service providers under agreement with the State (42 USC 300ff-23(a)(2)(B)).
- c. Funds may be used to provide inpatient case management services that prevent unnecessary hospitalization or that expedite discharge, as medically appropriate, from inpatient facilities (42 USC 300ff-14(b)(1)(B) and 22(1)).

- d. Funds may be used to provide home- and community-based care services for PLWH, including durable medical equipment, homemaker or home health aide services and personal care services furnished in the individual's home, day treatment or other partial hospitalization services; home intravenous and aerosolized drug therapy (including prescription drugs administered as part of such therapy); routine diagnostic testing administered in the individual's home; and appropriate mental health, developmental, and rehabilitation services, whether such services are provided directly by the State or by eligible consortia or other service providers under agreement with the State (42 USC 300ff-22(3) and 42 USC 300ff-24)).
- e. Funds may be used to provide assistance to assure the continuity of health insurance coverage or in receiving medical benefits under a health insurance program, including risk pools (42 USC 300ff-22(a)(4), 300ff-25(a), and 300ff-27(b)(6)(a)).
- f. Funds may be used to provide therapeutics to treat HIV disease (42 USC 300ff-22(5)).
- g. Funds may be used for administration, including routine grant administration and monitoring activities, and activities associated with the grantee's contract award procedures. For first-line entities (consortia or service providers funded directly by the State), these activities may include usual and recognized overhead, including established indirect rates for agencies, management oversight of the specific programs funded by the grant, and other types of program support, such as quality assurance, quality control, and related activities (42 USC 300ff-28(b)(4)).

2. Activities Unallowed

- a. Funds may not be used to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility (42 USC 300ff-28(b)(7)).
- b. Funds may not be used to make payments to recipients of services (42 USC 300ff-28(b)(7)).
- c. Funds may not be used to make payments for any item or service to the extent that payment has been made or can reasonably be expected to be made for that item or service under any State compensation program, under an insurance policy, or under any Federal or State health benefits program or by an entity that provides health services on a prepaid basis (42 USC 300ff-27(b)(6)(F)).

- d. Funds may not be used for inpatient hospital services or nursing home or other long-term care facilities (42 USC 300ff-24(c)(3)).
- e. Funds may not be used to pay any costs associated with creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools) or to pay any amount expended by a State under Title XIX of the Social Security Act (Medicaid) (42 USC 300ff-25(b)).
- f. Funds may not be used for AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual (42 USC 300ff-78)).
- g. For-profit providers or organizations may not be consortia participants unless they are the only available providers of quality HIV care in the area (42 USC 300ff-23(a)(1)).
- h. None of the funds made available under this Act, or an amendment made by this Act, shall be used to provide individuals with hypodermic needles or syringes so that individuals may use illegal drugs (42 USC 300-ff-1).

E. Eligibility

1. Eligibility for Individuals

To be eligible to receive assistance in the form of therapeutics, an individual must have a medical diagnosis of HIV disease and be a low-income individual, as defined by the State (42 USC 300ff-26(b)).

2. Eligibility for Groups of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

- a. To receive funding from the State, consortia must agree to provide, directly or through agreements with other service providers, essential health and support services, and must meet specified application and assurance requirements. These include conducting a needs assessment within the geographic area served and developing a plan (consistent with the State's comprehensive plan required by 42 USC 300ff-27(b)(4)) to meet identified service needs following a consultation process (42 USC 300ff-23(b) and (c)).
- b. For consortia otherwise meeting these requirements, the State shall give priority first to consortia that are receiving assistance from HRSA for adult

and pediatric HIV-related care demonstration projects and then to any other existing HIV care consortia (42 USC 300ff-23(e)).

G. Matching, Level of Effort, Earmarking

1. **Matching** – States and territories (excluding Puerto Rico) with greater than 1 percent of the aggregate number of national cases of AIDS in the 2-year period preceding the Federal fiscal year in which the State is applying for a grant must, depending on the number of years in which this threshold requirement has been met, provide matching funds as follows (42 USC 300ff-27(d)(1) and (3)):

Year(s) in Which Matching Required	Percentage of Non-Federal Matching	Ratio of Non-Federal to Federal Expenditures
First	16 2/3	\$1 non-Federal/\$5 Federal
Second	20	\$1 non-Federal/\$4 Federal
Third	25	\$1 non-Federal/\$3 Federal
Fourth and subsequent	33 1/3	\$1 non-Federal/\$2 Federal

The matching requirement applies to the combined total of the base allocation and ADAP funds.

2. **Level of Effort - Maintenance of Effort**

The State will maintain HIV-related activities at a level that is equal to not less than the level of such expenditures by the State for the 1-year period preceding the fiscal year for which the State is applying for Title II funds (42 USC 300ff-27(b)(6)(E)).

3. **Earmarking**

- a. The State may not use more than 10 percent of the amounts received under the grant for planning and evaluation activities (42 USC 300ff-28(b)(3)).
- b. The State may not use more than 10 percent of the funds amounts received under the grant for administration (42 USC 300ff-28(b)(4)).
- c. A State may not use more than a total of 15 percent of the amounts received for the combined costs for administration, planning, and evaluation. States and territories that receive a minimum allotment (between \$200,000 and \$500,000) may expend up to the amount required to support one full-time equivalent employee for any or all of these purposes (42 USC 300ff-28(a)(1), 28(b)(5), and 28(b)(6)).
- d. The aggregate of expenditures for administrative expenses by entities and subcontractors (including consortia) funded directly by the State from grant funds ("first-line entities") may not exceed 10 percent of the total

allocation of grant funds to the State (without regard to whether particular entities spend more than 10 percent for such purposes) (42 USC 300ff-28(c)(4)(A)).

- e. For the purpose of providing health and support services to women, youth, infants, and children with HIV disease, including treatment measures to prevent the perinatal transmission of HIV, a State shall use for each of these populations not less than the percentage of Title II funds in a fiscal year constituted by the ratio of the population involved (women, youth, infants, or children) in the State with AIDS to the general population in the State of individuals with AIDS (42 USC 300ff-21(b)). This information is provided to the State by HRSA in the annual application guidance (Appendix II, Estimated Number/Percent of Women, Infants, and Children Living with AIDS in States and Territories).
- f. A State shall use a portion of the funds awarded to establish a program to provide therapeutics to treat HIV disease or prevent the serious deterioration of health arising from HIV disease in eligible individuals, including measures for the prevention and treatment of opportunistic infections. The amount of this specific earmark for ADAP will be provided in the grant agreement (42 USC 300ff-26(a)).
- g. A State shall establish a quality management program to determine whether the services provided under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV disease and related opportunistic infection and, as applicable, to develop strategies for bringing these services into conformity with the guidelines. Funds used for this purpose may not exceed the lesser of: 5 percent of the amount received under the grant, or \$3,000,000 (42 USC 300ff-22(d)).

H. Period of Availability of Federal Funds

Not less than 75 percent of the amounts received by a State shall be obligated to specific programs and projects and made available for expenditure no later than 120 days after receipt by the State (budget period beginning date as shown on the Notice of Grant Award issued by HRSA) (42 USC 300ff-28)(c)).

J. Program Income

Providers may impose charges for the provision of services only as follows (42 USC 300ff-27(c)):

INDIVIDUAL'S INCOME LEVEL	PERMISSIBLE AGGREGATE CHARGES
Less than or equal to 100 percent of official poverty line	No charges may be imposed
Greater than 100 percent of the official poverty line	Charges must be imposed according to a publicly available sliding scale fee schedule, BUT
Greater than 100 percent of the official poverty line and not exceeding 200 percent of that poverty line	A provider may not, for any calendar year, impose aggregate charges in an amount exceeding 5 percent of the annual gross income of the individual involved.
Greater than 200 percent of the official poverty line and not exceeding 300 percent of that poverty line	A provider may not, for any calendar year, impose aggregate charges in an amount exceeding 7 percent of the annual gross income of the individual involved.
Greater than 300 percent of the official poverty line	A provider may not, for any calendar year, impose aggregate charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

The poverty guidelines are available on the Internet at <http://aspe.hhs.gov/poverty/poverty.htm> and are also published each year in the Federal Register.

The term "aggregate" applies to the annual charges imposed for all without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, co-payments, coinsurance, or other charges for services (42 USC 300ff-27 (c)(3)).

These requirements apply to all service providers from which an individual receives Title II-funded services. The State shall waive this requirement for an individual service provider in those instances when the provider does not impose a charge or accept reimbursement available from any third-party payer, including reimbursement under any insurance policy or any Federal or State health benefits program (42 USC 300ff-27(c)(4)).

L. Reporting

1. Financial Reporting

- a. *SF-269, Financial Status Report* - Applicable
- b. *SF-270, Request for Advance or Reimbursement* - Not Applicable

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- c. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
 - d. *SF-272, Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS-272 series of reports.
- 2. Performance Reporting** - Not Applicable
 - 3. Special Reporting** - Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.918 GRANTS TO PROVIDE OUTPATIENT EARLY INTERVENTION SERVICES WITH RESPECT TO HIV DISEASE****I. PROGRAM OBJECTIVES**

The objective of this program is to provide, on an outpatient basis, high-quality, early intervention services and primary care related to the Human Immunodeficiency Virus (HIV). This is accomplished by increasing the present capacity of eligible ambulatory health service providers to provide a continuum of HIV prevention for at-risk individuals, and care for individuals who are HIV-infected, including when applicable, perinatal care.

II. PROGRAM PROCEDURES**Administration and Services**

This program is administered at the Federal level by the HIV/Acquired Immunodeficiency Syndrome (AIDS) Bureau, Health Resources and Services Administration (HRSA), a component of the Department of Health and Human Services.

Grants are awarded to public and non-profit private entities, including community and migrant health centers and the other consolidated health centers. Grants are also awarded to non-State family planning organizations, comprehensive hemophilia diagnostic and treatment centers, city and county health departments, university-based medical centers, and other entities that provide comprehensive primary care services to populations at risk of HIV disease. Those providers must be qualified Medicaid-participating providers unless an exception is granted by HRSA.

The early intervention services (EIS) program enables primary health care providers to include a range of services from risk assessment, and HIV counseling, testing, and referral services to clinical care for people with HIV. Many of these providers receive other Federal funding, e.g., community and migrant health centers, but this categorical funding allows them to provide adequate funding for these services.

Services may be provided directly by the grantee or through contractual agreements with other service providers.

Source of Governing Requirements

The HIV EIS grant program is authorized under Subparts II and III of Title III of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, as amended, and is codified at 42 USC 300ff-51 through 300ff-67. The program has no specific program regulations.

Availability of Other Information

Further information about this program is available at www.hab.hrsa.gov.

The poverty guidelines are published each year in the Federal Register. HHS also maintains this information at <http://aspe.hhs.gov/poverty/poverty.htm>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look first to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Activities Allowed

- a. Funds may be used for counseling (whether or not associated with testing) and testing for HIV (42 USC 300ff-51(b)(2)(A) and (B) and 42 USC 300ff-62(f)).
- b. Funds may be used to provide diagnostic and therapeutic measures for preventing and treating the deterioration of the immune system and related conditions (including STD, hepatitis C, and tuberculosis). This includes periodic medical evaluations, appropriate treatment of HIV infection, prophylactic, and treatment interventions for complications of HIV infection (including opportunistic infections, opportunistic malignancies, and other AIDS-defining conditions) (42 USC 300ff-51(b)(2)(D) and (E)).
- c. Grant funds may be used to refer clients to sub-specialty or consultant services, and to related evaluation, diagnostic, and treatment services. This includes, but is not limited to, infectious diseases, oncology, dermatology, ophthalmology, pulmonary and oral health specialists as well as outpatient mental health and substance abuse services and nutrition assessment and counseling related to living with HIV/AIDS (42 USC 300ff-51(b)(2)(C) and (b)(3)).
- d. Grant funds may be used to pay the costs of providing optional services, including outreach to individuals who may have HIV disease or may be at risk of the disease and to health care professionals, case management, and assistance to individuals in establishing eligibility for Federal, State, or local programs providing health, mental health, social, or other appropriate services (42 USC 300ff-51(b)(2)(C) and (b)(5)).

2. Activities Unallowed

- a. Funds may not be used to make payments for any item or service to the extent that payment has been made or can reasonably be expected to be made for that item or service under any State compensation program,

under an insurance policy, or under any Federal or State health benefits program or by an entity that provides health services on a prepaid basis (42 USC 300ff-64(f)(1)).

- b. Funds may not be awarded to for-profit entities to carry out required early intervention services unless they are the only available providers of quality HIV care in the area (42 USC 300ff-51(b)(4)(A)).
- c. Grant funds may not be used for counseling programs designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual (42 USC 300ff-67(a)(1)).
- d. None of the funds made available under this Act, or an amendment made by this Act, shall be used to provide individuals with hypodermic needles or syringes so that individuals may use illegal drugs (42 USC 300ff-1(as enacted in Pub. L. 101-381, sec. 422)).

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2.1 Level of Effort - *Maintenance of Effort*

A grantee must maintain its expenditures for early intervention services at a level equal to not less than the level of expenditures for such services for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant (42 USC 300ff-64(d)).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

- a. A minimum of 50 percent of the funds awarded must be spent on providing the following early intervention services to individuals with HIV disease: testing, referrals, other clinical and diagnostic services, periodic medical evaluations, and therapeutic measures--directly and on-site or at sites where other primary care services are rendered (42 USC 300ff-51(b)(1), (b)(2), and b(4)(B)).
- b. Not more than 10 percent of the approved Federal grant funds may be used for administrative expenses, including planning and evaluation (42 USC 300ff-64(g)(3)).

J. Program Income

Providers may impose charges for the provision of services only as follows (42 USC 300ff-64(e)):

INDIVIDUAL'S INCOME LEVEL	PERMISSIBLE AGGREGATE CHARGES
Less than or equal to 100 percent of official poverty line	No charges may be imposed
Greater than 100 percent of the official poverty line	Charges must be imposed according to a publicly available sliding scale fee schedule, BUT
Greater than 100 percent of the official poverty line and not exceeding 200 percent of that poverty line	A provider may not, for any calendar year, impose aggregate charges in an amount exceeding 5 percent of the annual gross income of the individual involved.
Greater than 200 percent of the official poverty line and not exceeding 300 percent of that poverty line	A provider may not, for any calendar year, impose aggregate charges in an amount exceeding 7 percent of the annual gross income of the individual involved.
Greater than 300 percent of the official poverty line	A provider may not, for any calendar year, impose aggregate charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

The poverty guidelines are available on the Internet at <http://aspe.hhs.gov/poverty/poverty.htm> and are also published each year in the Federal Register.

The term "aggregate charges" applies to the annual charges without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, co-payments, coinsurance, or other charges for services (42 USC 300ff-64 (e)(4)).

The charges shall be made on the basis of a publicly available schedule of charges and may, at the grantee's discretion, be assessed at an alternate lesser amount (42 USC 300ff-64(e)(1) and (3)).

The requirement for an individual service provider to impose a charge will be waived by HRSA in those instances when the provider does not impose a charge or accept reimbursement available from any third-party payer, including reimbursement under any insurance policy or any Federal or State health benefits program and a waiver has been granted by HRSA under 42 USC 300ff-52(b)(2) (42 USC 300ff-64(e)(5)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable

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- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
 - c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
 - d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS-272 series of reports.
2. **Performance Reporting** – Not Applicable
3. **Special Reporting** – Not Applicable

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.958 BLOCK GRANTS FOR COMMUNITY MENTAL HEALTH SERVICES****I. PROGRAM OBJECTIVES**

The objective of the Community Mental Health Services Block Grant Program (CMHS) is to provide funds to States and territories to enable them to carry out their respective plans for providing comprehensive community-based mental health services for adults with serious mental illness and children with serious emotional disturbances. To insure creative and cost effective delivery of services, States are encouraged to develop solutions to specific mental health concerns of their local communities.

II. PROGRAM PROCEDURES**Administration and Services**

The Substance Abuse and Mental Health Services Administration (SAMHSA), an operating division of the Department of Health and Human Services (HHS), administers the block grant program. Examples of CMHS Block Grant funded activities include: (1) a comprehensive, community-based system of mental health care for adults who have a serious mental illness and children and youth who have a serious emotional disturbances, including case management, treatment, rehabilitation, employment, housing, education, medical, dental, and other support services that enable individuals to function in the community and reduce the rate of psychiatric hospitalization; (2) outreach for homeless individuals who also suffer from serious mental illness and the development of special services for individuals with serious illness living in rural areas; and (3) systemic integration of social, educational, juvenile justice, and substance abuse services with health and mental health services for children with a serious emotional disturbance to ensure that care is appropriate to their multiple needs (including services provided under the Individuals with Disabilities Act).

CMHS funds are allocated to the States according to a formula legislated by Congress. States may then distribute these funds to cities, counties, or service providers within their jurisdictions. Funds may only be used for carrying out the State plan, evaluating programs and services carried out under the plan, or planning, administration, and education activities relating to providing services under the plan.

State Plan

The State must submit to SAMHSA an annual application that includes a plan to meet the community mental health services objectives described above and signed assurances required by the Act. The State plan addresses how the State intends to comply with the various requirements of Title XIX, Part B, Subparts I and III of the Public Health Services Act (42 USC 300x) and its program objectives by addressing the five criteria listed in the statute.

Source of Governing Requirements

This program is authorized under Title XIX, Part B, Subparts I and III of the Public Health Service Act (42 USC 300x *et seq.*). Criteria for the State plan may be found at 42 USC 300x-1. 45 CFR part 96 provides regulations for the general administrative requirements for the covered block grant programs. These regulations are in lieu of either 45 CFR part 74 (OMB Circular A-110) or 92 (A-102 Common Rule). In addition, States are to administer the CMHS program according to the plans which they submitted to SAMHSA.

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, States are to use the fiscal policies that apply to their own funds in administering CMHS. Procedures must be adequate to assure the proper disbursement of and accounting for Federal funds paid to the grantee, including procedures for monitoring the assistance provided (45 CFR section 96.30).

Under the block grant philosophy, each State is responsible for designing and implementing its own CMHS program, within very broad Federal guidelines. States must administer their CMHS program according to their approved plan and any amendments and in conformance with their own implementing rules and policies.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Services provided with grant funds shall be provided only through appropriate, qualified community programs (which may include community mental health centers, child mental health programs, psychosocial rehabilitation programs, mental health peer support programs and mental health primary consumer-directed programs). Services under the plan will be provided through community mental health centers only if the services are provided as follows:
 - a. Services principally to individuals residing in a defined geographic area (service area);
 - b. Outpatient services, including specialized outpatient services for children, the elderly, individuals with serious mental illness, and residents of the centers who have been discharged from inpatient treatment at a mental health facility;
 - c. 24-hours-a-day emergency care services;

- d. Day treatment and other partial hospitalization services or psychosocial rehabilitation services; or
 - e. Screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission (42 USC 300x-2(b) and (c)).
2. The State shall not use grant funds to:
- a. Provide inpatient hospital services;
 - b. Make cash payments to intended recipients of health services;
 - c. Purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or any other facility, or purchase major medical equipment;
 - d. Satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funding; or
 - e. Provide financial assistance to any entity other than a public or nonprofit entity. A State is not precluded from entering into a procurement contract for services, since payments under such a contract are not financial assistance to the contractor (42 USC 300x-5(a)).

B. Allowable Costs/Cost Principles

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, CMHS is exempt from the provisions of OMB cost principles Circulars. State cost principles requirements apply to CMHS (45 CFR section 96.30).

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort*

- a. The State shall for each fiscal year maintain aggregate State expenditures for community mental health centers at a level that is not less than the average level of such expenditures maintained by the State for the two State fiscal years preceding the fiscal year of the grant. Expenditures for the two previous fiscal years are reported in the State plan. The Secretary may exclude from the aggregate State expenditures funds appropriated to the principal agency for authorized activities which are of a non-recurring nature and for a specific purpose (42 USC 300x-4(b)).

- b. The State shall for each fiscal year expend an amount not less than an amount equal to the amount expended in fiscal year 1994 for systems of integrated services for children with serious emotional disturbance (42 USC 300x-2(a)(1)(C)). FY 1994 expenditures are reported in the State plan.

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

The State may not expend more than 5 percent of grant funds for administrative expenses with respect to the grant (42 USC 300x-5(b)).

H. Period of Availability of Federal Funds

Any amounts paid to the State for a fiscal year shall be available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts were paid (42 USC 300x-62).

L. Reporting

1. Financial Reporting

- a. *SF-269A, Financial Status Report* - Applicable beginning with the Federal fiscal year ending on September 30, 2002 (45 CFR section 96.30(b)).
- b. SF-270, Request for Advance or Reimbursement - Not Applicable
- c. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. *SF-272, Federal Cash Transactions Report* - Payments under this program are made by the HHS Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272 series of reports.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Independent Peer Reviews

Compliance Requirement - The State must provide for independent peer reviews that assess the quality, appropriateness, and efficacy of treatment services provided to

individuals. At least 5 percent of the entities providing services in the State shall be reviewed annually. The entities reviewed shall be representative of the entities providing the services. The State shall ensure that the peer reviewers are independent by ensuring that the peer review does not involve reviewers reviewing their own programs and the peer review is not conducted as part of the licensing or certification process (42 USC 300x-53(a), 45 CFR section 96.136).

Audit Objectives - Determine whether (1) the required number of entities were peer reviewed, (2) the selection of entities for peer review was representative of entities providing services, and (3) the State ensured that the peer reviewers were independent.

Suggested Audit Procedures

- a. Ascertain the number of entities providing treatment services in the State.
- b. Ascertain if the number of entities reviewed was at least 5 percent of the entities providing treatment services.
- c. Ascertain if the selection of entities for peer review was representative of entities providing services.
- d. From a sample of peer reviews performed, ascertain if the State ensured that the peer reviewers were independent.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.959 BLOCK GRANTS FOR PREVENTION AND TREATMENT OF
SUBSTANCE ABUSE****I. PROGRAM OBJECTIVES**

The objective of the Substance Abuse Prevention and Treatment (SAPT) Block Grant Program is to provide funds to States, territories, and one Indian Tribe for the purpose of planning, carrying out and evaluating activities to prevent and treat Substance Abuse (SA) and other related activities as authorized by the statute.

The SAPT Block Grant is the primary tool the Federal government uses to fund State SA prevention and treatment programs. While the SAPT Block Grant provides Federal support to addiction prevention and treatment services nationally, it empowers the States to design solutions to specific addiction problems that are experienced locally.

II. PROGRAM PROCEDURES**Administration and Services**

The Substance Abuse and Mental Health Services Administration (SAMHSA), an operating division of the Department of Health and Human Services (HHS), administers the block grant program. For purposes of this guidance, the term "State" includes the 50 States, the District of Columbia, American Samoa, Guam, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Marianas, Palau, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and the Red Lake Band of Chippewa Indians. The States generally subaward funds for the provision of services to public and non-profit organizations. Service providers may include for-profit organizations but for-profits may not receive financial assistance.

Examples of SAPT activities are:

- a. *Alcohol Treatment and Rehabilitation* - Direct services to patients experiencing primary problems for alcohol, such as outreach, detoxification, outpatient counseling, residential rehabilitation, hospital based care (not inpatient hospital services), abuse monitoring, vocational counseling, case management, central intake, and program administration.
- b. *Drug Treatment and Rehabilitation* - Direct services to patients experiencing primary problems with illicit and licit drugs, such as outreach, detoxification, methadone maintenance and detoxification, outpatient counseling, residential rehabilitation, including therapeutic communities, hospital based care (not inpatient hospital services), vocational counseling, case management central intake, and program administration.

- c. *Primary Prevention Activities* - Education, counseling, and other activities designed to reduce the risk of substance abuse.

The SAPT funds are allocated to the States according to a formula legislated by Congress. States may then distribute these funds to cities, counties, or service providers within their jurisdictions based on need. Of the SAPT funds dispensed to each State annually, Congress has specified that not less than 20 percent for programs for individuals who do not require treatment for substance abuse. The programs should (a) educate and counsel the individuals on such abuse and (b) provide for activities to reduce the risk of such abuse by the individuals. SAPT Block Grant statutory "set asides" were established to fund programs targeting special populations, such as services for women, especially pregnant and postpartum women and their children, and, in certain States, for screening for human immunodeficiency virus (HIV).

State Plan

The State must submit to SAMHSA for approval, an annual application which includes a State plan for SA prevention and treatment services objectives described above and signed assurances required by the Act and implementing regulations. The entire application, including the plan, must be reviewed by SAMHSA to ensure that all of the requirements of the law and regulations are met.

The State plan addresses how the State intends to comply with the various requirements of Title XIX, Part B, Subparts II and III of the Public Health Service Act (42 USC 300x) and its program objectives and specific allocations by: (1) conducting State and local demand and need assessments; (2) establishing statewide prevention and treatment improvement plans with specific multi-year goals for narrowing identified service gaps, implementing training efforts, and fostering coordination among SA treatment, primary health care, and human service agencies; and (3) addressing human resource requirements, clinical standards and identified treatment improvement goals, and ensuring coordination of all health and human services for addicted individuals.

The State shall make the plan public within the State in such a manner as to facilitate comment from any person (including any Federal or other public agency) during development of the plan (including any revisions) and after submission of the plan to SAMHSA.

Source of Governing Requirements

This program is authorized under Title XIX, Part B, Subparts II and III of the Public Health Service Act (42 USC 300x). Implementing regulations are published at 45 CFR part 96. Those regulations include general administrative requirements for the covered block grant programs (in lieu of either 45 CFR parts 74 (OMB Circular A-110) or 92 (A-102 Common Rule)). Requirements specific to SAPT are in 45 CFR sections 96.120 through 96.137. In addition, grantees are to administer their SAPT programs according to the plan which they submitted to SAMHSA.

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, States are to use the fiscal policies that apply to their own funds in administering SAPT. Procedures must be adequate to assure the proper disbursement of and accounting for Federal funds paid to the grantee, including procedures for monitoring the assistance provided (45 CFR section 96.30).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. The State shall not use grant funds to provide inpatient hospital services except when it is determined by a physician that: (a) the primary diagnosis of the individual is SA and the physician certifies this fact; (b) the individual cannot be safely treated in a community based non-hospital, residential treatment program; (c) the service can reasonably be expected to improve an individual's condition or level of functioning; and (d) the hospital based SA program follows national standards of SA professional practice. Additionally, the daily rate of payment provided to the hospital for providing the services to the individual cannot exceed the comparable daily rate provided for community based non-hospital residential programs of treatment for SA and the grant may be expended for such services only to the extent that it is medically necessary (i.e., only for those days that the patient cannot be safely treated in a residential community based program) (42 USC 300x-31(a) and (b); 45 CFR sections 96.135(a)(1) and (c)).
2. Grant funds may be used for loans from a revolving loan fund for provision of housing in which individuals recovering from alcohol and drug abuse may reside in groups. Individual loans may not exceed \$4000 (45 CFR section 96.129).
3. Grant funds shall not be used to make cash payments to intended recipients of health services (42 USC 300x-31(a); 45 CFR section 96.135(a)(2)).
4. Grant funds shall not be used to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or any other facility, or purchase major medical equipment. The Secretary may provide a waiver of the restriction for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition (42 USC 300x-31(a); 45 CFR sections 96.135(a)(3) and (d)).
5. The State shall not use grant funds to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funding (42 USC 300x-31(a); 45 CFR section 96.135(a)(4)).

6. Grant funds may not be used to provide financial assistance (i.e., a subgrant) to any entity other than a public or non-profit entity. A State is not precluded from entering into a procurement contract for services, since payments under such a contract are not financial assistance to the contractor (42 USC 300x-31(a); 45 CFR section 96.135 (a)(5)).
7. The State shall not expend grant funds to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs (42 USC 300ee-5; 45 CFR section 96.135 (a)(6) and Pub. L. No. 106-113, section 505).
8. Grant funds may not be used to enforce State laws regarding sale of tobacco products to individuals under age of 18, except that grant funds may be expended from the primary prevention setaside of SAPT under 45 CFR section 96.124(b)(1) for carrying out the administrative aspects of the requirements such as the development of the sample design and the conducting of the inspections (45 CFR section 96.130 (j)).

B. Allowable Costs/Cost Principles

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, SAPT is exempt from the provisions of OMB cost principles circulars. State cost principles requirements apply to SAPT.

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2. Level of Effort

- a. The State shall for each fiscal year maintain aggregate State expenditures for authorized activities by the principal agency at a level that is not less than the average level of such expenditures maintained by the State for the two State fiscal years preceding the fiscal year for which the State is applying for the grant. The "principal agency" is defined as the single State agency responsible for planning, carrying out and evaluating activities to prevent and treat SA and related activities. The Secretary may exclude from the aggregate State expenditures funds appropriated to the principal agency for authorized activities which are of a non-recurring nature and for a specific purpose (42 USC 300x-30; 45 CFR sections 96.121 and 96.134).
- b. The State must maintain expenditures at not less than the calculated fiscal year 1994 base amount for SA treatment services for pregnant women and women with dependent children. The fiscal year 1994 base amount was reported in the State's fiscal year 1995 application (42 USC 300x-27; 45 CFR section 96.124(c)).

- c. Designated States shall maintain expenditures of non-Federal amounts for HIV services at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period proceeding the first fiscal year for which the State receives such a grant. A designated State is any State whose rate of cases of HIV is 10 or more such cases per 100,000 individuals (as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control for the most recent calendar year for which the data are available.) (42 USC 300x-30; 45 CFR sections 96.128 (b) and (f)).
- d. The State shall maintain expenditures of non-Federal amounts for tuberculosis services at a level that is not less than an average of such expenditures maintained by the State for the 2 year period preceding the first fiscal year for which the State receives such a grant (42 USC 300x-24; 45 CFR section 96.127).

3. Earmarking

- a. Of the amount earmarked for alcohol and other drugs prevention and treatment activities (III.G.3.a and b above), the State shall expend not less than 20 percent of SAPT for primary prevention programs for individuals who do not require treatment of SA. The programs should educate and counsel the individuals on such abuse and provide for activities to reduce the risk of such abuse by the individuals (42 USC 300x-22; 45 CFR sections 96.124 (b)(1) and 96.125).
- b. Designated States shall expend not less than 2 percent and not more than 5 percent of the award amount to carry out one or more projects to make available to individuals early intervention services for HIV disease at the sites where the individuals are undergoing SA treatment. If the State carries out two or more projects, the State will carry out one such project in a rural area of the State unless the Secretary waives the requirement (42 USC 300x-24; 45 CFR section 96.128(a)(1) and (d)).
- c. The State may not expend more than 5 percent of the grant to pay the costs of administering the grant (42 USC 300x-31; 45 CFR section 96.135 (b)(1)).
- d. The State may not expend grant funds for providing treatment services in penal or correctional institutions in an amount more than that expended for such programs by the State for fiscal year 1991 (42 USC 300x-31; 45 CFR section 96.135(b)(2)).

H. Period of Availability of Federal Funds

Any amounts awarded to the State for a fiscal year shall be available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts were awarded (42 USC 300x-62).

L. Reporting**1. Financial Reporting**

- a. *SF-269A, Financial Status Report* - Applicable beginning with Federal fiscal years ending on or after September 30, 2002 (45 CFR section 96.30(b)).
- b. *SF-270, Request for Advance or Reimbursement* - Not Applicable
- c. *SF-271, Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. *SF-272, Federal Cash Transactions Report* - Payments under this program are made by the HHS Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272 series of reports.

2. Performance Reporting - Not Applicable**3. Special Reporting**

Substance Abuse Prevention and Treatment (SAPT) Block Grant Application - Form 06B, Summary of Tobacco Results by State Geographic Sampling Unit (OMB No. 0930-0080) - This form is part of the overall application for the SAPT Block Grant and it summarizes the tobacco inspection activities.

Key Line Items - The following line items contain critical information:

1. (3) *No. of Outlets Randomly Inspected.*
2. (4) *No. of Outlets Found in Violation During Random Inspections.*

N. Special Test and Provisions**1. Independent Peer Reviews**

Compliance Requirements - The State must provide for independent peer reviews which assess the quality, appropriateness, and efficacy of treatment services provided to individuals. At least 5 percent of the entities providing services in the State shall be reviewed. The entities reviewed shall be representative of the entities providing the services. The State shall ensure that the peer reviewers are independent by ensuring that the peer review does not involve reviewers reviewing their own programs and the peer review is not conducted as part of the licensing or certification process (42 USC 300x-53(a); 45 CFR section 96.136).

Audit Objectives - Determine whether (1) the required number of entities were peer reviewed, (2) the selection of entities for peer review was representative of entities providing services, (3) the State ensured that the peer reviewers were independent.

Suggested Audit Procedures

1. Ascertain the number of entities providing treatment services in the State.
2. Ascertain if the number of entities reviewed was at least 5 percent of the entities providing treatment services.
3. Ascertain if the selection of entities for peer review was representative of entities providing services.
4. Select a sample of peer reviews and ascertain if the State ensured that the peer reviewers were independent.

IV. OTHER INFORMATION

As described in Part 4, Social Services Block Grant (SSBG) program (CFDA 93.667), Subpart III.A. Activities Allowed or Unallowed, a State may transfer up to 10 percent of its annual allotment under SSBG to this and six other block grant programs.

Amounts transferred into this program are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.991 PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT****I. PROGRAM OBJECTIVES**

The purpose of the Preventive Health and Health Services Block Grant (PHHSBG) is to provide States with the resources to improve the health status of the population of each grantee through: (1) activities leading to the accomplishment of the year 2000 objectives for the nation; (2) rodent control and community-school fluoridation activities; (3) specified emergency medical services excluding most equipment purchases; (4) services for sex offense victims including prevention activities; and (5) for related administration, education, monitoring and evaluation activities.

II. PROGRAM PROCEDURES**Administration and Services**

The PHHSBG program is administered by the Centers for Disease Control (CDC), a component of the Department of Health and Human Services (HHS). After receiving and reviewing a State's grant application, the CDC awards funds to the State according to a two-part formula prescribed at 42 USC 300w-1(a)(1) and 300w-1(b).

Source of Governing Requirements

The PHHSBG is authorized under Title X of the Public Health Service Act, as amended, and is codified as 42 USC 300 et seq. The implementing regulations for this and other block grant programs authorized by Omnibus Budget Reconciliation Act of 1981 are published at 45 CFR part 96. Those regulations include general administrative requirements (in lieu of either 45 CFR Part 74 (OMB Circular A-110) and 92 (A-102 Common Rule)) for the covered block grant programs.

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, States are to use the fiscal policies that apply to their own funds in administering PHHSBG. Procedures must be adequate to assure the proper disbursement and accounting for Federal funds paid to the grantee, including procedures for monitoring the assistance provided (45 CFR section 96.30).

Under the block grant philosophy, each grantee is responsible for designing and implementing its own PHHSBG program, within very broad Federal guidelines. Grantees must administer their PHHSBG program according to their approved plan and any amendments and in conformance with the grantee's own implementing rules and policies.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Activities Allowed

- a. Activities consistent with making progress towards achieving the objectives established by the Secretary for the health status of the population of the United States for the year 2000 (42 USC 300w-3(a)(1)(A))
- b. Preventive health service programs for the control of rodents and for community and school-based fluoridation programs (42 USC 300w-3(a)(1)(B)).
- c. Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems. Amounts for such systems may not be used for the costs of the operation of the systems or the purchase of equipment for the systems, except that such amounts may be used for the payment of not more than 50 percent of the costs of purchasing communications equipment for the systems. Amounts may be expended for feasibility studies or planning for the trauma-care components of such systems only if the studies or planning, respectively, is consistent with the requirements of 42 USC 300d-13(a) ((42 USC 300w-3(a)(1)(C)).
- d. Providing services to victims of sex offenses and for prevention of sex offenses (42 USC 300w-3(a)(1)(D)).
- e. Related planning, administration, educational, monitoring, and evaluation activities (42 USC 300w-3(a)(1)(E) and 3(a)(1)(F)).
- f. A State may transfer up to 7 percent of its annual allotment to the following block grants: Block Grants for Community Mental Health Services (CFDA 93.958) and the Maternal and Child Health Services Block Grant to the States (CFDA 93.994). At any time in the first three quarters of the fiscal year a State may transfer not more than 3 percent of the State's allotment and in the last quarter of a fiscal year a State may transfer the remainder (42 USC 300w-3(c)).

2. Activities Unallowed

- a. Inpatient services (42 USC 300w-3(b)(1)).
- b. Cash payments to intended recipients of health services (42 USC 300w-3(b)(2)).
- c. Purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment (42 USC 300w-3(b)(3)).
- d. Satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds (42 USC 300w-3(b)(4)).
- e. Provide financial assistance to any entity other than a public or nonprofit entity (42 USC 300w-3(b)(5)).

B. Allowable/Cost Principles

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, PHHSBG is exempt from the provisions of OMB cost principles circulars. State cost principles requirements apply to PHHSBG.

G. Matching, Level of Effort, Earmarking**1. Matching - Not Applicable****2.1 Level of Effort - *Maintenance of Effort***

The State must maintain State expenditures for activities under 42 USC 300w-3 at a level that is not less than the average level of such expenditures maintained by the State for the proceeding 2-year period (42 USC 300w-4(c)(6)).

2.1 Level of Effort - *Supplement Not Supplant* - Not Applicable**3. Earmarking**

- a. The State shall not use more than 10 percent paid from each of its allotments for administering the funds. The State will pay from non-Federal sources the remaining cost of administering such funds (42 USC 300w-3(d)).
- b. The notice of Block Grant Awards may provide that specific amounts are earmarked for services to victims of sex offenses (42 USC 300w-3(a)(2)).

H. Period of Availability of Federal Funds

PHHSBG funds must be expended by the State in the fiscal year allotted or in the succeeding fiscal year (42 USC 300w-2(a)(2)).

L. Reporting

1. Financial Reporting

- a. SF-269A, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

IV. OTHER INFORMATION

Transfers into PHHSBG

A State may transfer up to 10 percent of its annual allotment under SSBG to this and six other block grant programs for support of health services, health promotion and disease prevention activities, low-income home energy assistance, or any combination of these activities.

Amounts transferred into this program are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

Transfers out of PHHSBG

As discussed in "III.A Activities Allowed or Unallowed," funds may be transferred out of PHHSBG to other Federal programs. The amounts transferred out of PHHSBG are subject to the requirements of the program into which they are transferred and should not be included in the audit universe and total expenditures of PHHSBG when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amount transferred out should not be shown as PHHSBG expenditures but should be shown as expenditures for the program into which they are transferred.

DEPARTMENT OF HEALTH AND HUMAN SERVICES**CFDA 93.994 MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT
TO THE STATES****I. PROGRAM OBJECTIVES**

The objective of the program of grants to States under the Maternal and Child Health (MCH) Block Grant program is to provide funds to the 50 States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Federated States of Micronesia, Palau, the Marshall Islands, and the Northern Marianas (States) for improvement of the health of all mothers and children consistent with applicable health status goals and national health objectives established under the Public Health Service Act.

Specifically, MCH Block Grants are intended to: (1) provide and assure mothers and children (especially those with low income or limited availability of services) access to quality maternal and child health services; (2) reduce infant mortality and the incidence of preventable diseases and disabling conditions among children; (3) reduce the need for inpatient and long-term care services; (4) increase the number of children appropriately immunized against disease and the number of low-income children receiving health assessments and follow-up diagnostic and treatment services; (5) promote the health of mothers and infants by providing prenatal, delivery, and postpartum care for low-income, at-risk pregnant women; (6) promote the health of children by providing preventive and primary care services for low-income children; (7) provide rehabilitation services for blind and disabled individuals under sixteen years of age receiving benefits under Title XVI of the Social Security Act (Supplemental Security Income) to the extent medical assistance for such services is not provided under Title XIX (Medicaid); and (8) provide and promote family-centered, community-based, coordinated care for children with special health care needs and to facilitate the development of community-based systems of services for those children and their families.

II. PROGRAM PROCEDURES**Administration and Services**

The MCH Block Grant program was created by the Omnibus Budget and Reconciliation Act (OBRA) of 1981. Under that legislation, seven categorical grants programs were consolidated into the single MCH Block Grant program. These were maternal and child health services for children with special health care needs; supplemental security income for children with disabilities; lead-based paint poisoning prevention programs; genetic disease programs; sudden infant death syndrome programs; and adolescent pregnancy grants. Extensive amendments to the authorizing statute in 1989 increased State programmatic and fiscal accountability under the program. These include requirements for States to define health status measures and to develop measurable objectives for program efforts as well as to report progress on key maternal and child health indicators.

The program is currently administered by the Division of State and Community Health, Maternal and Child Health Bureau (MCHB), Health Resources and Services Administration (HRSA), a

component of the Department of Health and Human Services (HHS). MCH Block Grant funds are awarded to States in accordance with a preestablished formula after submission to and approval of their applications by HRSA. The application addresses how the State plans to implement prioritized tasks based on a Statewide needs assessment (required to be conducted every five years) for all mothers and children, including those with special health care needs. The State health agency is responsible for overall program administration according to its approved plan but services may be carried out by the recipient or by local nonprofit agencies that are funded in accordance with an allocation methodology determined by the recipient (and approved by HRSA).

Source of Governing Requirements

The MCH Block Grant program is authorized under the 1981 Omnibus Budget and Reconciliation Act, as amended, and is codified at 42 USC 701 through 709. The implementing regulations for this and other HHS block grant programs are published at 45 CFR part 96. Those regulations include both specific requirements and general administrative requirements for the covered block grant programs (in lieu of either 45 CFR part 74 (OMB Circular A-110) or 45 CFR part 92 (A-102 Common Rule)).

Availability of Additional Program Information

Further information about this program is available on the Internet at www.mchb.hrsa.gov.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should look first to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Activities Allowed*

- a. Funds may be used to provide health services and related activities, including planning, administration, education, and evaluation (42 USC 704(a)).
- b. Funds may be used to purchase technical assistance from public or private entities if required to develop, implement, or administer the MCH Block Grant (42 USC 704(c)).
- c. Funds may be used for salaries and other related expenses of National Health Service Corps personnel assigned to the State (42 USC 704(a)).
- d. Funds may be used to continue funding of special projects in the State funded under Title V of the Social Security Act prior to the enactment of

the MCH Block Grant program on August 31, 1981 (42 USC 705(a)(5)(C)(i)).

2. *Activities Unallowed*

- a. Funds may not be used to purchase or improve land, to purchase, construct, or permanently improve buildings or facilities (other than minor remodeling), or to purchase major medical equipment unless a waiver has been granted by HRSA (42 USC 704(b)(3)).
- b. Funds may not be used to make cash payments to intended recipients of services (42 USC 704(b)(2)).
- c. Funds may not be provided for research or training to any entity other than a public or nonprofit private entity (42 USC 704(b)(5)).
- d. Funds may not be used for inpatient services, other than for children with special health care needs or high-risk pregnant women and infants or other inpatient services approved by the Associate Administrator for Maternal and Child Health (42 USC 704(b)(1)). Infants are defined as persons less than one year of age (42 USC 706(a)(2)(E)).
- e. Funds may not be used to make payments for any item or service (other than an emergency item or service) furnished by an individual or entity excluded under Titles V, XVIII (Medicare), XIX (Medicaid), or XX (Social Services Block Grant) of the Social Security Act (42 USC 704(b)(6)).
- f. MCH Block Grant funds may not be transferred to other block grant programs (42 USC 702(a)(3) and 705(a)(5)(B)).

B. Allowable Costs/Cost Principles

As discussed in Appendix I of this Supplement, Federal Programs Excluded from the A-102 Common Rule, the MCH Block Grant program is exempt from the provisions of OMB cost principles circulars. State cost principles requirements apply to the MCH Block Grant program.

G. Matching, Level of Effort, Earmarking

1. Matching

Federal funds expended for the program must be matched 75 percent by State funds (42 USC 703(a)).

2.1. Level of Effort - *Maintenance of Effort*

The State must maintain the level of funds provided solely by the State for maternal and child health programs at a level at least equal to the level provided in FY 1989 (42 USC 705(a)(4)).

2.2. Level of Effort - *Supplement Not Supplant* - Not Applicable**3. Earmarking**

- a. Unless a lesser percentage is established in the State's notice of award for a given fiscal year, the State must use at least 30 percent of payment amounts for preventive and primary care services for children (42 USC 705(a)(3)(A)).
- b. Unless a lesser percentage is established in the State's notice of award for a given fiscal year, the State must use at least 30 percent of payment amounts for services for children with special health care needs (42 USC 705(a)(3)(B)).
- c. A State may not use more than 10 percent of allotted funds for administrative expenses (42 USC 704(d)).

H. Period of Availability of Federal Funds

Funds available to States from their allotment for any fiscal year are available for obligation by the State in that fiscal year or in the succeeding fiscal year. No payment may be made to a State from allotments for a fiscal year for expenditures made after the end of the following fiscal year (42 USC 703(b)).

J. Program Income

Charges imposed by a State for services under this program must be pursuant to a published schedule of charges and adjusted to reflect the income, resources, and family size of the recipients. No charges may be imposed for low-income mothers or children (42 USC 705(a)(5)(D)). The official poverty guideline, as revised annually by HHS, shall be used to determine whether an individual is considered low-income for this purpose.

The poverty guidelines are issued each year in the *Federal Register*. HHS maintains a page on the Internet that provides the poverty guidelines (aspe.os.dhhs.gov/poverty/poverty.htm).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Applicable

- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the HHS, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS-272 series of reports.

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *Title V Application/Annual Report (OMB No. 0915-0172)* - The State must submit an annual report by July 15 of each year (at the time it submits the annual application). The reporting forms and instructions are contained in a document entitled "Guidance and Forms for the Title V Application/Annual Report." Reports are prepared electronically.

Key Line Items - The following line items contain critical information.

Number of Individuals Served and Proportion with Health Coverage:

Form 6	Number and Percentage of Newborns and Others Screened, Confirmed and Treated
Form 7	Number of Individuals Served (Unduplicated) Under Title V
Form 8	Deliveries and Infants Served by Title V and Entitled to Benefits under Title XIX

Amounts Spent Under Title V on Each Type of Service by Class of Individuals Served for the current year:

Form 3	State MCH Funding Profile, "Expended" column
Form 4	Budget Details by Types of Individuals Served, Item I.a.-g.
Form 5	State Title V Program Budget and Expenditures by Types

IV. OTHER INFORMATION

Federal funds from other block grant programs (e.g., Social Services Block Grant (93.667), and Preventive Health and Health Services Block Grant (93.991)) may be transferred into the MCH Block Grant program. MCH Block Grant funds, however, may not be transferred to other block grant programs (42 USC 702(a)(3) and 705(a)(5)(B)). Funds transferred into the MCH Block Grant are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs.

On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

CFDA 94.006 AMERICORPS

I. PROGRAM OBJECTIVES

The AmeriCorps national service program provides funds to national and locally-based organizations to address educational, public safety, human and environmental needs in communities throughout the United States.

II. PROGRAM PROCEDURES

The Corporation for National and Community Service (the Corporation) distributes approximately two-thirds of the funds available for AmeriCorps programs to Commissions on National and Community Service in the various States (one-third on a formula basis and at least one-third on a competitive basis). The State Commissions then award grants to approved applicants for community service programs within their states. The Corporation directly awards the remaining one-third of available AmeriCorps program funds to approved applicants (unless the amount available for this purpose is limited by appropriations acts), with one percent of the funds being set aside for Indian Tribes and one percent for grantees in U.S. Territories.

In addition to grants to fund AmeriCorps programs, State Commissions also receive grants from the Corporation to finance their administrative operations. These grants are made under a program titled State Commissions (CFDA 94.003) which is not included in Part 4 of this Supplement. Also not included in this Supplement are AmeriCorps programs funded under Subtitle H of the National and Community Service Act of 1990, as amended (42 USC 12653 through 12653d).

AmeriCorps grantees recruit and train individuals as AmeriCorps members. Full-time AmeriCorps members receive a living allowance and are eligible for health insurance and childcare benefits (if they are not otherwise covered while participating in the program). After completing the required term of service and satisfactorily completing the program, the AmeriCorps members receive a voucher crediting them with a post-service educational benefit, which may be used to pay off qualified student loans or pay qualified education costs. The Corporation's National Service Trust Fund records the Federal liability for an AmeriCorps member's education benefit, and, upon application from the AmeriCorps member and the lender or educational institution, transmits the funds to the lender or institution. AmeriCorps members who successfully complete a term of service are also eligible for the payment of interest on qualified students loans that accrue during a period of national service forbearance.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Funding is provided to carry out a full or part-time national service program. Activities allowed include recruiting, training and supervising AmeriCorps members, paying living allowances to AmeriCorps members, paying health insurance premiums and childcare benefits for eligible AmeriCorps members, paying certain employment-related taxes, paying staff and other costs for program management, internal evaluations, and reimbursement of grantee administrative costs (42 USC 12572, 12754 and 12594; 45 CFR sections 2520 to 2550).

Among restrictions governing Corporation assistance, grant funds may not be used to provide a direct benefit to any business organization organized for profit, labor union, religious activities (provide religious instructions, conduct worship services or proselytize), or assist or deter union organizing, impair existing contracts for services, organize protests or petitions, or finance the outcome of an election to Federal, State or local public office (42 USC 12584 and 12634; 45 CFR section 2520.30).

E. Eligibility

1. Eligibility for Individuals

AmeriCorps members must be citizens, nationals, or lawful permanent resident aliens of the United States, and must be not less than 17 years old at the time of enrollment into the program. The statute does, however, permit certain types of programs to enroll participants who are out of school youths at least 16 years of age (42 USC 12591; 45 CFR section 2522.200).

Living allowances are paid on the basis of an AmeriCorps member's selection and enrollment as a full-time participant in a program. The living allowance that an AmeriCorps member receives is not to be considered or treated as a wage or a salary. The installment payments of living allowances are not dependent upon the actual number of hours actually spent on service. Most full-time AmeriCorps members are to receive a living allowance during the installment period of at least 100 percent, but not more than 200 percent, of the total average annual subsistence allowance provided to VISTA volunteers. For particular program years, the limits on the living allowances are as follows (42 USC 4955 and 12594; 45 CFR section 2522.240):

<u>Program Year</u>	<u>Minimum Allowance</u>	<u>Maximum Allowance</u>
2000-2001	\$9,000	\$18,000
2001-2002	\$9,300	\$18,600
2002-2003	\$9,600	\$19,200

Current information on the minimum and maximum amounts of AmeriCorps living allowances is available from the Office of the Director of AmeriCorps at the Corporation's Headquarters at (202) 606-5000.

While most full-time AmeriCorps members cannot receive a living allowance higher than the maximum amount set forth above, the statute permits "professional corps" members to receive a living allowance in excess of the maximum allowance authorized in the statute. However, in this instance, Corporation funds may not be used to pay for any portion of the living allowance (42 USC 12594(c); 45 CFR section 2522.240).

An AmeriCorps member who is authorized to serve a reduced term of service may be provided a prorated living allowance for that authorized reduced term of service (42 USC 12593, 12594; 45 CFR sections 2522.220 and 2522.240).

2. **Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable**
3. **Eligibility for Subrecipients - Not Applicable**

G. Matching, Level of Effort, Earmarking

1. Matching

- a. *Operational Costs* - Except for living allowances, child care allowances (if applicable), health insurance premiums (if applicable), and certain employment-related taxes, the Corporation's share of the cost of activities carried out under the grant cannot exceed 75 percent. However, the terms of AmeriCorps program grants often require programs to provide higher operational matching amounts than 25 percent. The program must provide its matching amount in the form of cash, or in kind, fairly evaluated, including facilities, equipment, or services. The program may provide for its operational matching amount through State sources, local sources, or other Federal sources. The Corporation may waive, in whole or in part, the minimum match requirement (25 percent) in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level (42 USC 12571(e); 45 CFR section 2521.30(g)).
- b. *Member Support Costs* - The Federal share, including Corporation and other Federal funds, of the living allowance provided to an AmeriCorps member may not exceed 85 percent of the minimum required living allowance. The grantee must provide the remaining funding for living allowances from non-Federal cash sources. The Corporation will pay up to 85 percent of the cost of health care coverage that includes the minimum benefits specified by the Corporation. The Corporation

specifies the minimum benefits required as part of its grant provisions (42 USC 12594(a) and (d); 45 CFR sections 2522.240(b)(5) and 2522.250(b)).

2. Level of Effort - Not Applicable

3. Earmarking

No more than five percent of assistance provided by the Corporation can be used for the combined administrative expenses of the grantee and its subgrantees (42 USC 12571(d); 45 CFR sections 2521.30(h) and 2540.110).

L. Reporting

1. Financial Reports

- a. SF-269A - *Financial Status Report* (Short Form) - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS 272 series of reports.

2. Performance Reports - Not Applicable

3. Special Reports

The following two forms are submitted to the Corporation for each AmeriCorps member and are used by the Corporation to support the member's eligibility for a post-service education benefit. A roster of members enrolled/completed during the period should be obtained from the Corporation, to assure that the universe of forms submitted, as provided by the entity, is complete. Rosters may be obtained by contacting the Corporation's Director of Trust Operations at (202) 606-5000, extension 363.

- a. *National Service Enrollment Form (OMB No. 3045-0006)* - This form is used by the Corporation to enroll participants in the AmeriCorps program and the National Service Trust. Enrollment is necessary for the AmeriCorps member to receive a post-service education benefit upon successful completion of their term of service.

Key Line Items - The following line items contain critical information.

Part 3 - AmeriCorps member enrollment information.

- b. *Corporation for National Service End of Term/Exit Form (OMB No. 3045-0015)* - This form is used by grantees to certify to the Corporation the number of service hours that each AmeriCorps member has completed, and whether the AmeriCorps member is eligible for a post-service education benefit. The Corporation's National Service Trust relies on this information to record the Federal liability for an AmeriCorps member's education benefit (42 USC 12593 and 12603; 45 CFR sections 2522.220, 2522.230, and 45 CFR part 2525).

Key Line Items - The following line items contain critical information.

Part 3 - Service hours completed by an AmeriCorps member, and the AmeriCorps member's entitlement to an education benefit.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

CFDA 94.011 FOSTER GRANDPARENT PROGRAM
CFDA 94.016 SENIOR COMPANION PROGRAM

I. PROGRAM OBJECTIVES

Foster Grandparent Program grants are awarded to allow participants to serve as mentors, tutors, and caregivers for children and youth with special needs. Foster Grandparents serve in community organizations such as schools, hospitals, and youth centers.

Senior Companion Program grants are awarded to allow participants to provide assistance and friendship to older persons with exceptional needs who are homebound and usually living alone. By taking care of simple chores, providing transportation to medical appointments, and offering contact to the outside world, Senior Companions often provide the essential services that keep older persons from having to enter nursing homes. They also assume the duties of live-in caretakers for short periods of time to give the caretakers a respite from their duties.

II. PROGRAM PROCEDURES

The Corporation for National and Community Service (Corporation) awards Foster Grandparent and Senior Companion program grants only to State and local public agencies and private nonprofit organizations that have the capability to administer such grants. These sponsors are legally responsible for all programmatic and fiscal aspects of the project, and may not delegate or contract this responsibility to another entity. Consequently, the program has no subrecipients (42 USC 5011(a) and 5013(a); 45 CFR sections 2551.22 and 2552.22).

In both programs, participants aged 60 and older serve an average of 20 hours per week and, if they meet income eligibility requirements, may receive small stipends and other direct benefits to help offset the costs of serving. In addition, participants who do not meet the income eligibility requirements may serve as non-stipended Foster Grandparents or Senior Companions. Those participants receive all direct benefits, other than the stipend, to offset the costs of serving and are not required to serve 20 hours per week (42 USC 5011(a) and 5013(a); 45 CFR sections 2551.102 and 2552.102).

Prospective sponsors apply for Foster Grandparent or Senior Companion grants through Corporation State Offices. New and renewal project applications are reviewed by the Corporation State Office, and final decisions are rendered by the Corporation State Director (45 CFR sections 2551.91 and 2552.91).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Grant funds may be used for stipends for participants who meet income levels set by the Corporation.

Grant funds can also be used for other direct benefits for stipended Foster Grandparents and Senior Companions, such as: transportation costs; physical examinations; accident, liability, and excess automobile insurance covering participants during their volunteer activities; meals; and, costs for recognition of participants' volunteer efforts. Grant funds are also available for budgeted amounts of staff, office space, staff travel, and other administrative costs of the organization sponsoring the program (42 USC 5011(a) and (d) and 5013(a) and (b); 45 CFR sections 2551.45 and 2552.45).

No Federal or required non-Federal funds can be used to pay any costs, including direct benefits or administrative costs, associated with non-stipended Foster Grandparents and Senior Companions (42 USC 5011(f)(4) and 5013(b); 45 CFR sections 2551.104 and 2552.104).

Foster Grandparent and Senior Companions grant funds may not be used to influence the outcome of any election to public office, to facilitate voter registration, or to provide voters or prospective voters with transportation to the polls. Grant funds may not be used by the non-Federal entity in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except (1) when a legislative body or committee requests a program sponsor or participant to draft, review or testify regarding measures or make representations to the legislative body or committee, or (2) in connection with an authorization or appropriations measure directly affecting the operation of the Foster Grandparent Program and/or Senior Companion Program (42 USC 5043(c); 45 CFR sections 2551.121 and 2552.121).

No Foster Grandparent or Senior Companion grant funds shall be directly or indirectly used to finance labor union or anti-labor union organization or related activity (42 USC 5044(d); 45 CFR sections 2551.121(d) and 2552.121(d)).

E. Eligibility

1. Eligibility for Individuals

Foster Grandparents and Senior Companions who are paid stipends must be at least 60 years old, meet applicable income guidelines, and be physically, mentally, and emotionally capable of serving on a person-to-person basis. Income eligibility is based on the applicant's total annual income (including the total annual income of the applicant's spouse), less allowable medical expenses. To be eligible, an applicant's income must fall below eligibility levels specified by the Corporation (generally set at 125 percent of the poverty level annually established by the Department of Health and Human Services). Eligibility levels vary by geographic area. The eligibility levels for all areas are published annually in the *Federal Register*, and are available from the Corporation's State Offices or from

the National Senior Service Corps at the Corporation's headquarters at (202) 606-5000 (64 FR 17626, April 12, 1999). Stipends for Foster Grandparents and Senior Companions are \$2.55 per hour effective January 1, 1998 (prior to January 1, 1998, the rates were set at \$2.45 per hour). This may be increased by the Corporation from time to time. Current information on the amount of the hourly stipend is also available from the Corporation's State Offices or from the National Senior Service Corps at the Corporation's headquarters (42 USC 5011 and 5013; 45 CFR sections 2551.42 and 2552.42).

Foster Grandparents and Senior Companion programs may enroll persons who are at least 60 years old, but who do not meet the income guidelines as non-stipended Foster Grandparents or Senior Companions (45 CFR 2551 subpart J and 2552 subpart J).

2. **Eligibility for Group of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients** - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The non-Federal entity is required to contribute at least 10 percent of the total cost of a project from non-federal sources or authorized federal sources, unless the Notice of Grant Award specifies a lower percentage (42 USC 5011(a) and 5013(a); 45 CFR sections 2551.92(a) and 2552.92(a)).

2. **Level of Effort** - Not Applicable
3. **Earmarking**

An amount equal to 90 percent of the Federal share of a Foster Grandparent or Senior Companion program grant must be used for stipend and other direct benefits for Foster Grandparents or Senior Companions, unless the Notice of Grant Award specifies a different percentage. Direct benefits for Foster Grandparents and Senior Companions include stipends, insurance, transportation, meals, physical examinations, recognition, and uniforms, if necessary (45 CFR sections 2551.45 and 2552.45).

L. Reporting

1. Financial Reporting

- a. SF-269A, *Financial Status Report* (Short Form) - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Applicable

- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - For some grantees, payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS 272 series of reports.

2. Performance Reports - Not Applicable

3. Special Reports

- a. Form No. 1021-FGP, *Foster Grandparent Program Project Profile and Volunteer Activity Survey (OMB No. 3045-0029)* - This form is used by the Corporation to collect information related to Foster Grandparent Programs. The collection is made biennially for odd numbered years for the preceding 12-month period. The Corporation plans to use the information collected with this form as part of the Corporation's performance measures under the Government Performance and Results Act.

Key Line Item - The following line item contains critical information

Question 1- Number of Foster Grandparents who served during the 12-month period, whether CNS or non-CNS funded. This is the unduplicated annual count of Foster Grandparents.

- b. Form No. 1021-SCP, *Senior Companion Program Project Profile and Volunteer Activity Survey (OMB No. 3045-0029)* - This form is used by the Corporation to collect information related to Senior Companion Programs. The collection is made biennially for odd numbered years for the preceding 12-month period. The Corporation plans to use the information collected with this form as part of the Corporation's performance measures under the Government Performance and Results Act.

Key Line Item - The following line item contains critical information.

Question 1 - Number of Senior Companions who served during the 12-month period, whether CNS or non-CNS funded. This is the annual unduplicated count of Senior Companions.

SOCIAL SECURITY ADMINISTRATION

CFDA 96.001 SOCIAL SECURITY--DISABILITY INSURANCE (DI)
CFDA 96.006 SUPPLEMENTAL SECURITY INCOME (SSI)

I. PROGRAM OBJECTIVES

The Social Security Administration (SSA) is responsible for disability determinations under the Disability Insurance (DI) and the Supplemental Security Income (SSI) programs. The DI program was established in 1954 under Title II of the Social Security Act and provides benefits to disabled wage earners and their families in the event the family wage earner becomes disabled (Section 221 of the Social Security Act). In 1974, Congress enacted Title XVI, the SSI program, which provides benefits to financially needy individuals who are aged, blind or disabled (Section 1633 of Social Security Act).

II. PROGRAM PROCEDURES

The disability process begins when a person, referred to as a claimant, completes a claim for DI or SSI benefits. SSA field office staff verifies the claimant's non-medical eligibility. The claim is then forwarded to the State Disability Determination Services (DDS) for a medical determination of disability. To assist in making proper disability determinations, the DDS is authorized to purchase medical examinations, x-rays and laboratory tests on a consultative basis to supplement evidence obtained from the claimants' physicians or other treating sources.

SSA pays the DDS for 100 percent of the costs incurred in making disability determinations. Each year the State DDS submits a budget request to SSA for review and approval. The DDS is notified of budget approval by Form SSA-872, *State Agency Budget Approval for SSA Disability Programs*. Once approved, the DDS is allowed to withdraw Federal funds through the Department of Treasury's Automated Standard Application for Payment system to meet immediate program expenses. At the end of each quarter of each fiscal year, the DDS submits a Form SSA-4513, *State Agency Report of Obligations for SSA Disability Programs*, to account for program disbursements and obligations and a Form SSA-4514, *Time Report of Personnel Services for Disability Determination Services*, to account for employee time.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

DDSs make disability determinations based on the law and regulations and on written guidelines issued by SSA. Each State making disability determinations is entitled to receive from the Trust funds reimbursement for the cost of making those disability determinations for SSA. Activities shall be in accordance with the budget request

approved by SSA. Purchased medical services, such as Medical Evidence of Record (MER) and Consultative Examinations (CE), must be in accordance with the DDS's fee schedule for purchased medical services. Activities allowed under the disability programs include personnel services, purchased medical services, indirect costs and other non-personnel costs (42 USC 421 (e) and (f); 20 CFR section 404.1626).

B. Allowable Costs/Cost Principles

1. *Direct Costs* - The SSA Program Operations Manual System (POMS) contains guidance on direct costs for both the DI and SSI programs. Personnel services (POMS DI 39518) include personnel costs and employee benefits. Purchased medical services (POMS DI 39545) include MER and CE. Other non-personnel costs include travel (POMS DI 39524), space (POMS DI 39527), equipment (POMS DI 39530), and contracted services (POMS DI 39542).
2. *Indirect Costs* - Indirect costs which may be charged to the disability program generally arise from three sources: (a) administrative costs of the parent agency related to DDS; (b) business costs associated with the accounting, billing, and procurement services provided by the parent agency for the DDS; and (c) automated services provided to the DDS that are operated by the parent agency. Indirect costs charged to the disability program should be based on the rate approved by the cognizant Federal agency as evidenced by a written agreement.
3. *Non-SSA Work* - Some DDSs make disability determinations for claims not related to SSA benefits. When a DDS performs non-SSA work, a Memorandum of Understanding should exist between the State and the SSA Regional Commissioner that outlines the specifics of the non-SSA work. The SSA should not be charged the costs on the non-SSA program work (POMS DI 39563).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. SSA-4513, *State Agency Report of Obligations for SSA Disability Programs (OMB No. 0960-0421)* - This report is due quarterly for each fiscal year still open in order to account for program disbursements and unliquidated obligations (20 CFR section 404.1625(a); POMS DI 39506.800).

- f. SSA-4514, *Time Report of Personnel Services (OMB No. 0960-0421)* - This report is due quarterly to account for employee time (POMS DI 39506.800).

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

IV. OTHER INFORMATION

Disbursements for the DI and SSI programs are not accounted for separately. Expenditures for both programs should be reported on the Schedule of Expenditures of Federal Awards under DI (CFDA 96.001).

PART 5 - CLUSTERS OF PROGRAMS

INTRODUCTION

Part 5 identifies those programs that are considered to be clusters of programs as defined by OMB Circular A-133 (§___.105). A cluster of programs means Federal programs with different CFDA numbers that are defined as a cluster of programs because they are closely related programs that share common compliance requirements. This Part identifies research and development (R&D) and Student Financial Aid (SFA) as clusters, as well as certain other programs included in Part 4, Agency Program Requirements, that are deemed to be clusters. For R&D and SFA, the following sections of this Part are the equivalent of Part 4.

This Part also defines other clusters of programs that are **not** included in this Compliance Supplement. If a cluster is defined in this Part, but not included in Part 4, the auditor will have to determine the compliance requirements to test in accordance with Part 7, Guidance for Auditing Programs Not Included in This Compliance Supplement.

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 5 for the details of the requirements. The descriptions of the compliance requirements in Parts 3 and 5 are generally a summary of the actual compliance requirements. The auditor should refer to the referenced citations (e.g., laws and regulations) for the complete compliance requirements.

RESEARCH AND DEVELOPMENT PROGRAMS

I. PROGRAM OBJECTIVES

The Federal Government sponsors research and development activities to achieve objectives agreed upon between the sponsoring agency and the institution. The types of research and development conducted under these agreements vary widely. The objective of individual projects is explained in the Federal award document.

II. PROGRAM PROCEDURES

Research is 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. 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.

Research and development grants and contracts are awarded to non-Federal entities on the basis of research proposals submitted to Federal agencies or pass-through entities. These proposals are sometimes unsolicited. A grant or contract agreement is then negotiated in which the purpose of the project is specified, the amount of the award is indicated, and terms of administration are delineated.

III. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 5 for the details of the requirements.

A. Activities Allowed or Unallowed

The objective(s) of individual research and development projects are explained in the applicable award documents. Testing of compliance with this requirement should ensure that funds were used only for activities for the furtherance of such objective(s).

B. Allowable Cost/Cost Principles

Individual employee compensation and related benefits generally comprise a significant portion of total costs charged to research and development projects. The auditor should give particular attention to the allocability of these costs. The distribution of individual employee compensation and related benefits to Federally sponsored research projects must follow the applicable Federal cost principles and the Federal award document. Therefore, the auditor's testing should include tests of the time and effort reporting system to support the distribution of salaries and wages.

Indirect costs is a second major category of cost charged to research and development projects. The third most prevalent type of cost charged is supplies and equipment.

The auditor should determine if journal entries, computer generated costs (e.g., payroll, benefits, supplies, computer usage), and transfers were made to the research and development projects. If so, a representative sample of these should be included as a part of allowable costs testing.

G. Matching, Level of Effort, Earmarking

1. Matching

Non-Federal entities may be required to share in the cost of research either on an overall entity or individual grant basis. The specific program regulations or individual Federal award will specify matching requirements if applicable.

2. Level of Effort - Not Applicable

3. Earmarking - Not Applicable

L. Reporting

1. Financial Reporting

The specific program regulations or the Federal award will specify the required financial reports. The auditor is responsible for testing the standard Federal financial reports or alternate forms that report the same or similar information.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

The larger R&D awards may contain special terms and conditions which could have a direct and material effect on the Research and Development Cluster. The auditor should make inquiries of the non-Federal entity's management and review a sample of the larger R&D awards to ascertain if such special terms and conditions exist. When special terms and conditions exist which could be material to this Cluster, the auditor should develop the audit objectives, audit procedures, and perform tests for compliance with the special terms and conditions.

STUDENT FINANCIAL ASSISTANCE PROGRAMS

Department of Education Department of Health and Human Services

CFDA 84.007	FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS (FSEOG)
CFDA 84.032	FEDERAL FAMILY EDUCATION LOANS (FFEL)
CFDA 84.033	FEDERAL WORK-STUDY PROGRAM (FWS)
CFDA 84.038	FEDERAL PERKINS LOANS (FPL)--FEDERAL CAPITAL CONTRIBUTIONS
CFDA 84.063	FEDERAL PELL GRANT PROGRAM (PELL)
CFDA 84.268	FEDERAL DIRECT LOAN PROGRAM (DIRECT LOAN) (FDL)
CFDA 93.108	HEALTH EDUCATION ASSISTANCE LOANS (HEAL)
CFDA 93.342	HEALTH PROFESSIONS STUDENT LOANS, INCLUDING PRIMARY CARE LOANS/LOANS FOR DISADVANTAGED STUDENTS (HPSL)
CFDA 93.364	NURSING STUDENT LOANS (NSL)
CFDA 93.820	SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED (EFN)
CFDA 93.925	SCHOLARSHIPS FOR HEALTH PROFESSIONS STUDENTS FROM DISADVANTAGED BACKGROUNDS (SDS)

I. PROGRAM OBJECTIVES

The objective of the student financial assistance programs is to provide financial assistance to eligible students attending institutions of postsecondary education.

II. PROGRAM PROCEDURES

Institutions must apply to either the Secretary of Education or Secretary of Health and Human Services to participate in their particular SFA programs. Some applications must be filed annually, others upon initial entry and once approved, periodically thereafter. Institutions may be approved to participate in only one program or a combination of programs. Institutions are responsible for (1) determining student eligibility; (2) verifying student data (when required); (3) calculating, as required, the amount of financial aid a student can receive; (4) completing and/or certifying parts of various loan applications and/or promissory notes; (5) drawing funds from the Federal government and disbursing or delivering SFA funds to students directly or by crediting students' accounts; (6) making borrowers aware of loan repayment responsibilities; (7) submitting, as requested, data on borrowers listed on student status confirmation reports; (8) making refunds to students, lenders and programs, as appropriate, if students withdraw, drop out or are expelled from their course of study; (9) collecting SFA overpayments; (10) establishing, maintaining and managing (including collecting loan repayments) a revolving loan fund for applicable programs; and, (11) reporting the use of funds. Institutions may contract with third-party servicers to perform many of these functions.

Title IV Programs - General

The programs cited in this cluster that are administered by the Department of Education (those with CFDA's beginning with 84) are authorized by Title IV of the Higher Education Act of 1965 (the Act), as amended, and collectively are referred to as the "Title IV programs." Because they are administered at the institutional level, the Federal Perkins Loan Program, Federal Work-Study Program and Federal Supplemental Education Opportunity Grant program are referred to collectively as the "campus-based programs."

For Title IV programs, students complete a paper or electronic application (Free Application for Federal Student Aid (FAFSA) (OMB No. 1845-0001) and send it to a central processor (a contractor of the Department of Education that administers the Central Processing System). The central processor provides Student Aid Reports (SARs) to applicants and provides Institutional Student Information Records (ISIRs) to institutions. Among other things, the SAR contains the applicant's Expected Family Contribution (EFC). Students take their SARs to the institution (or the institution uses the ISIR) to help determine student eligibility, award amounts and disbursements. (Note: The central processor is a service organization of the Department of Education, not of the schools. Therefore, Statement on Auditing Standards No. 70 does not apply when auditing the schools.)

Federal Pell Grant (Pell) (CFDA 84.063)

The Federal Pell Grant program provides grants to students enrolled in eligible undergraduate programs, and certain eligible postbaccalaureate teacher certificate programs, and is intended to provide a foundation of financial aid. The program is administered by the Department of Education and postsecondary educational institutions. Maximum and minimum Pell grant awards are established by statute. The Department of Education provides funds to the institution based on actual and estimated Pell expenditures.

Federal Perkins Loan (FPL) (CFDA 84.038)

Health Professions Student Loan (HPSL)/Primary Care Loans (PCL) (CFDA 93.342)

Nursing Student Loan (NSL) (CFDA 93.364)

The FPL, HPSL/PCL, and NSL programs provide long-term low-interest loans to students who demonstrate the need for financial aid to pursue their course of study at postsecondary educational institutions. Revolving loan funds are established and maintained at institutions through applications to participate in the programs. The funds are started with the Federal Capital Contribution (FCC) and a matching Institutional Capital Contribution (ICC). Repayments of principal and interest, new FCC, and new ICC are deposited in the revolving funds. The institution is fully responsible for administering the program (i.e., approving, disbursing and collecting the loans). Primary Care Loans are a segment of HPSL loan funds that impose certain restrictions on new borrowers as of July 1, 1993. First-time recipients of these funds after July 1, 1993 must agree to enter and complete a residency training program in primary health care, not later than four years after the date on which the student graduates from medical school, and must practice in such care through the date on which the loan is paid in full. Students who received their first HPSL before July 1, 1993 are exempt from this requirement, and may continue to borrow HPSL loans under their applicable health-related course of study.

Federal Work Study (FWS) (CFDA 84.033)

The Federal Work Study (FWS) program provides part-time employment to eligible undergraduate and graduate students who need the earnings to help meet costs of postsecondary education. This program also authorizes the establishment of the Job Location and Development (JLD) program, the purpose of which is to expand off-campus part-time or full-time employment opportunities for all students, regardless of their financial need, who are enrolled in eligible institutions and to encourage students to participate in community service activities.

Funds are provided to institutions upon submission of an annual application, *Fiscal Operations Report and Application to Participate* (FISAP) (this application covers all campus-based programs), and in accordance with statutory formulae. Institutions must provide matching funds unless they request in their FISAP and receive 100 percent Federal share. The institution determines the award amount, places the student in a job, and pays the student or arranges to have the student paid by an off-campus employer. The institution may use a portion of FWS funds for a JLD program.

Federal Supplemental Education Opportunity Grants (FSEOG) (CFDA 84.007)

The FSEOG program provides grants to eligible undergraduate students. Priority is given to Federal Pell recipients who have the lowest expected family contributions. The institution determines the amount of the grant, which can be up to \$4,000 but not less than \$100, for an academic year. The maximum amount may be increased to \$4,400 for a student participating in a study abroad program that is approved for credit by the student's home institution. Federal funds are matched with institutional funds (34 CFR section 676.21).

Federal Family Education Loans (FFEL) (CFDA 84.032)**William D. Ford Federal Direct Loan Program (Direct Loan) (CFDA 84.268)
(Both programs include subsidized Stafford, unsubsidized Stafford, and PLUS loans)**

The FFEL and Direct Loan programs make interest subsidized or unsubsidized Stafford loans available to students or PLUS loans to parents of dependent students to pay for the cost of attending postsecondary educational institutions. FFEL loans are made by eligible lenders (e.g. banks, savings and loan institutions, etc.) and insured by State or not-for-profit guaranty agencies. In some cases, institutions of higher education are approved as eligible lenders. The Federal Government reinsures loans guaranteed by the guaranty agencies. Direct Loans are made by the Secretary of Education. The student's SAR or ISIR, along with other information, is used by the institution to certify (for FFEL) or originate (for Direct Loan) a student's loan. The student financial aid administrator is also required to provide and confirm certain information.

The Federal Direct Loan program is changing annually. Currently, institutions participate in loan origination Option 1, Option 2, or Standard origination. Functions performed by loan origination option vary and are described in the *Direct Loan School Guide*. Direct Loan is an electronic program, except that borrowers have the option of signing paper promissory notes or electronically signing the promissory note completed online. Except for electronically-signed promissory notes, electronic records are created, batched, transmitted (exported) to a loan origination center (LOC) and acknowledged by (imported from) the LOC, on a cycle approach. A cycle is not complete until the last activity in it is finished, i.e., an action has been accepted by the LOC and the school's system reflects the acceptance. Direct Loan has four types of cycles: Loan Origination Records (one for each loan), Promissory Notes, Disbursement Records, and Change Records. For a loan to be "booked" the institution must have electronically transmitted to the LOC, and the LOC must have accepted these records: (1) the loan origination record; (2) the Promissory Note; and, (3) the first disbursement of loan proceeds. The borrower's original accepted promissory note is maintained at the LOC; the institution is not required to keep a copy.

When auditing institutions of higher education, tests of the compliance requirements are not expected to be made at the FFEL lending institutions (e.g., banks, credit unions, etc.) or the Direct Loan LOC. However, if the institution is participating in FFEL as an eligible lender, and SFA is a major program, the auditor's compliance opinion on SFA includes compliance with requirements associated with its role as a lender. Therefore, if the lending activity under FFEL is material to SFA as a whole, the auditor would need to perform procedures to support his or her opinion with respect to the institution's role as a FFEL lender. Compliance requirements associated with lenders under the FFEL program are not included in this compliance supplement, but are identified in an audit guide available from the Department of Education: *Compliance Audits (Attestation Engagements) for Lenders and Lender Servicers Participating in the Federal Family Education Loan Program*, dated December 1996.

The FFEL program at Guaranty Agencies (84.032) is not part of the Student Financial Assistance Cluster and is included in Part 4, Agency Program Requirements.

Health Education Assistance Loans (HEAL) (CFDA 93.108)

The HEAL Program is now effectively phased out as a Federal program that originates loans. Borrowers who received a HEAL loan prior to October 1, 1995, continued to be eligible to borrow until the phase out period ended, on September 30, 1998, when the HEAL Program's insurance authority (for funding levels) ceased. Students who had not obtained a HEAL loan before October 1, 1995, were not eligible to participate in the program after that date. Provisions were also made under the Higher Education Act of 1965, as amended, to increase the annual limits on unsubsidized loans under the Title IV, HEA program funds, to accommodate borrowers who became ineligible for HEAL loan funds after October 1, 1995. (See *Annual Limits for Unsubsidized Loans* in this Supplement).

A sizeable HEAL loan portfolio still exists, and certain schools may have currently enrolled students with active HEAL loans. An institution's activity will not include loan certification or origination at this point, and should be generally limited to reporting student status changes, exit loan counseling and preclaim assistance to former HEAL loan lenders.

Scholarships For Health Professions Students From Disadvantaged Backgrounds (Scholarships for Disadvantaged Students) (CFDA 93.925)

This program provides scholarships to schools of medicine, osteopathic medicine, dentistry, nursing, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, chiropractic or allied health; a school offering a graduate program in behavioral and mental health practice; or an entity providing programs for the training of physician assistants.

Source of Governing Requirements

The Department of Education programs are authorized by Title IV of the Higher Education Act (HEA) of 1965, as amended (20 USC 1001 et seq.). The regulations are found in 34 CFR parts 600 and 668-690.

The HHS programs in this cluster are authorized by the Public Health Service Act (PHSA). The PHSA was recently amended by the Health Professions Education Partnership Act of 1998, Pub. L. No. 105-392, effective November 13, 1998. The program authority for the Scholarship Program for Students of Exceptional Financial Need (CFDA 93.820) was repealed by the Act. EFN was replaced by Scholarships For Disadvantaged Students (Pub. L. No.105-392, Section 737).

Availability of Other Program Information

The Department of Education annually publishes the *Federal Student Financial Aid Handbook*, which provides detailed guidance on administering the Title IV programs. This and other guidance material are available on the Internet (<http://ifap.ed.gov/>). Printed copies can also be ordered from the Department of Education by calling 1-877 4EDPUBS (1-877-433-7827) or by e-mailing a request to edpuborders@edpubs.org. The Department of Health and Human Services publishes the Student Financial Aid Guideline which provides detailed guidance on administering the Title VII and VIII programs. This and other materials are available on the internet (<http://BHPR.HRSA.GOV>).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 5 for the details of the requirements.

Note: While the programs included in this cluster are generally similar in their intent, administration and documentation, etc., there are differences among them. Because of space considerations, we could not list all of the differences, exceptions to general rules or nuances pertaining to specific programs. Auditors should utilize regulations and guidance applicable to the year(s) being audited when auditing the SFA programs.

A. Activities Allowed or Unallowed

Generally, SFA funds can be used only for making awards to students and for administration of the programs. Other allowable uses for specific programs are as follows:

Federal Perkins Loan (FPL)

Certain billing, collection, and litigation costs must first be charged to the borrower and cannot be charged to the loan fund. If amounts recovered from the borrowers are not sufficient to pay these collection costs, program funds can be used to pay these costs with certain limits (34 CFR sections 674.8 and 674.47).

A school may transfer up to a total of 25 percent of its Federal Capital Contribution for an award year to either or both the Federal Supplemental Educational Opportunity Grant (FSEOG) or Federal Work Study programs. A school may transfer up to 100 percent of its initial and supplemental allocations to an approved Work Colleges program (34 CFR section 675.41). Transferred funds must be used according to the requirements of the program to which they are transferred. A school that transfers funds to the Federal Work Study, FSEOG or Work Colleges programs must transfer any unexpended funds back to the Federal Perkins Loan program at the end of the award year (34 CFR section 674.18).

Federal Work Study (FWS)

The institution may use FWS funds only for awards to students, a Job Location and Development (JLD) Program, Work-Colleges Program, administrative costs, and transfers to FSEOG (34 CFR sections 675.18 and 675.33).

Health Professions Student Loan (HPSL)/Primary Care Loan (PCL), CFDA 93.342 Nursing Student Loan (NSL), CFDA 93.364

Funds from both programs may also be used for capital distribution in Sections 728 and 839, or, as agreed to by the Secretary for costs of litigation; costs associated with membership in credit bureaus and, to the extent specifically approved by the Secretary, for other collection costs that exceed the usual expenses incurred in the collection of loan funds (HPSL, 42 CFR section 57.205(a); NSL, 42 CFR section 57.305(a)).

C. Cash Management

ED provides funds to an institution either in advance, by reimbursement, or by the cash monitoring payment methods. ED is piloting the just-in-time (JIT) payment method at a few institutions. Under the reimbursement method, the institution must disburse funds to the students before requesting funds from ED. Under the cash monitoring method, the institution must disburse funds to students before requesting funds from ED under either the advance (limited to the actual disbursement amount) or the reimbursement method. Under the advance payment method, the institution's request must not exceed the amount immediately needed to disburse funds to students. The institution must make the

disbursements as soon as administratively feasible, but no later than three business days following the receipt of funds. Any amounts not disbursed by the end of the third business day are considered to be excess cash and generally are required to be promptly returned to ED. However, an excess cash balance tolerance is allowed if that balance: (1) during a peak period of enrollment, was less than three percent of its total prior-year drawdowns; (2) for any other period was less than one percent of its prior-year drawdowns; and, (3) is eliminated within the next seven calendar days. Except for the Federal Perkins Loan Program earnings, interest earnings greater than \$250 must be returned to the ED. Federal Perkins Loan earnings are reinvested in the Federal Perkins Loan revolving fund (34 CFR sections 668.162 and 166).

Grantees draw funds using the Grant Administration and Payment System (GAPS). Grantees request funds by: (1) creating a payment request using the GAPS External Access System through the Internet; (2) calling the GAPS Payee Hotline; or (3) if the grantee is placed on the reimbursement or cash monitoring payment method, submitting an SF-270, *Request for Advance or Reimbursement* to an ED program or regional office. When creating a payment request in GAPS, the grantee enters the drawdown amounts, by award, directly into GAPS. Direct Loan Option 2 schools and grantees can redistribute drawn amounts between grant awards by making adjustments in GAPS to reflect actual disbursements for each award as long as the net amount of the adjustments is zero. When requesting funds using the other two methods, grantees and other Direct Loan schools provide drawdown information to the hotline operator, or on the SF-270.

To assist grantees in reconciling their internal accounting records with GAPS, grantees can use the GAPS External Access System (<http://e-grants.ed.gov>) to obtain a GAPS Activity Report showing cumulative and detail information for each award. The GAPS Activity Report can be created and viewed on-line and a hard copy may be printed as well.

For the HHS programs, requests for new FCC must only be made when needed. Any idle cash including any interest earned must be deposited in an income-producing account and all excess cash must be returned to HHS. For HPSL and NSL, the school must maintain all monies relating to each individual fund in interest bearing accounts. If the school integrates the funds with other school resources for investment purpose, the school must maintain separate accountability and reimburse the funds for any losses that occur (HPSL, 42 CFR sections 57.203 and 57.205; NSL, 42 CFR sections 57.303 and 57.305).

E. Eligibility

1. Eligibility for Individuals

The requirements for student eligibility are contained in Appendix A.

The determination of SFA award amounts is based on financial need. Financial need is generally defined as the student's cost of attendance (COA) minus financial resources reasonably available. In determining the financial resources available for the HHS programs, the school must use one of the need analysis

systems or any other procedures approved by the Secretary of Education. The school must also take into account other information that it has regarding the student's financial status. For Title IV programs, the financial resources available is generally the Expected Family Contribution (EFC) that is computed by the central processor and included on the student's SAR and the ISIR provided to the institution.

For the HHS programs, the costs reasonably necessary for the student's attendance include any special needs and obligations which directly affect the student's ability to attend the school. The school must document the criteria used for determining these costs. For Title IV programs the COA is generally the sum of the following: tuition and fees; an allowance for books, supplies, transportation and miscellaneous personal expenses; an allowance for room and board; where applicable, allowances for costs for dependent care; costs associated with study abroad and cooperative education; costs related to disabilities; and fees charged for student loans. There are exceptions for students attending less than half time, correspondence students, and incarcerated students. The financial aid administrator also has authority to use professional judgement to adjust the COA on a case-by-case basis to allow for special circumstances (20 USC 1087I-1087mm; FPL, 34 CFR section 674.9; FWS, 34 CFR section 675.9; FSEOG, 34 CFR section 676.9; FFEL, 34 CFR section 682.603; Direct Loan 34 CFR sections 685.200 and 301; Pell 34 CFR section 690.75; HPSL, 42 CFR section 57.206(b); NSL, 42 CFR section 57.306(b).

In addition to the following described requirements and limits, awards must be coordinated among the various programs and with other Federal and non-Federal aid to assure that total aid is not awarded in excess of the student's financial need (FPL, FWS, and FSEOG, 34 CFR sections 673.5 and 673.6; FFEL, 34 CFR section 682.603; Direct Loan, 34 CFR section 685.301; HPSL, 42 CFR section 57.206; NSL, 42 CFR section 57.306(b).

Health Professions Student Loan (HPSL)/Primary Care Loan (PCL), CFDA 93.342, Nursing Student Loan (NSL), CFDA 93.364

For periods prior to November 13, 1998, the total amount of HPSL loans made to a student for a school year may not exceed \$2,500 plus the cost of tuition (42 CFR section 57.207). For students who are applying for a HPSL loan, the school must make its selection based on the order of greatest financial need, taking into consideration the other resources available to the student. The resources may include summer earnings, educational loans, veteran (G.I.) Benefits, and earnings during the school year (HPSL, 42 CFR section 57.206(c)). For periods after November 13, 1998, the total amounts of HPSL loans to a student for a school year may not exceed the cost of attendance (including tuition, other reasonable educational expenses, and reasonable living expenses). The amount of the loan may, in the case of the third or fourth year of a student at a school of medicine or osteopathic medicine, be increased to pay balances of loans that were made to the individual for attendance at the school (42 USC 722(a)(1), section 722(a)(1) of

PHSA, Pub. L. No. 105-392, sections 134 (1) and (2)). The total amount of NSL loans made to a student for an academic year may not exceed \$2,500 except that for each of the final two academic years of the program the total must not exceed \$4,000. The total of all NSL loans may not exceed \$13,000 (NSL, 42 CFR section 57.307).

Scholarship Program for Students of Exceptional Financial Need (EFN), CFDA 93.820

The authority for this program was repealed by the Health Professions Education Partnership Act of 1998 (Pub. L. No. 105-392). The EFN was replaced by Scholarships For Disadvantaged Students (Pub. L. No. 105-392, Section 101). Amendments made by the Act shall not terminate agreements that, on the day before the date of enactment of the Act, were in effect. Such agreements shall continue in effect in accordance with the terms of the agreements (42 USC 295n note).

Scholarships For Health Professions Students From Disadvantaged Backgrounds (Scholarships for Disadvantaged Students) (CFDA 93.925)

Scholarships will be awarded by schools to any full-time student who is from a disadvantaged background; has a financial need for a scholarship; and is enrolled (or accepted for enrollment) in a program leading to a degree in a health profession or nursing. Such scholarships may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in the attendance of such school (42 USC 293a; section 737 of PHSA).

Federal Pell Grants (Pell)

Each year, based on the maximum Pell grant established by Congress, ED provides to institutions Payment and Disbursement Schedules for determining Pell awards. The Payment or Disbursement Schedule provides the maximum annual amount a student would receive for a full academic year for a given enrollment status, EFC and COA. The Payment Schedule is used to determine the annual award for a full-time student. There are separate Disbursement Schedules for three-quarter time, half-time and less than half-time students and students with low assessed tuition. All of the Schedules, however, are based on the COA of a full-time student for a full academic year (see the Pell Grant Reference in the *Federal SFA Handbook* for the year(s) being audited for guidance on selecting formulas for calculating cost of attendance, prorating costs for programs less or greater than an academic year, and determining payment periods). The steps to determine Pell awards are as follows:

- (1) Determine the student's enrollment status (full-time, three-quarter time, half-time or less than half-time).

- (2) Calculate the cost of attendance. This is always based on the cost for a full-time enrollment status for a full academic year. If the student is enrolled in a program or enrollment period that is longer or shorter than an academic year, the costs must be prorated so that they apply to one full academic year. There are two allowable proration methods. Costs can be on an actual cost-per-student basis or an average cost for groups of similar students. If the student is enrolled less than half-time, the only allowable cost components are tuition and fees, allowance for books and supplies, transportation allowance, and allowance for dependent care.
- (3) Determine the annual award, based on the cost of attendance calculated above and the EFC, from the Payment or Disbursement Schedule for the student's enrollment status (i.e., full-time, three quarter-time, half-time, or less than half-time).
- (4) Determine the payment period. For term programs (semester, trimester, quarter), the payment period is the term.
- (5) Calculate the payment for the payment periods. The calculation of the payment for the payment period may vary depending on the formula used, the length of the program compared to the academic year, and whether the institution uses an alternative calculation for students who attend summer terms (See the Pell Grant Reference in the *Federal SFA Handbook*).
- (6) Disburse funds at prescribed times (This is tested under section N, Special Tests and Provisions) (34 CFR sections 690.61 through 690.67, and 690.75 through 690.78; Pell Grant Payment Schedules; and *Federal SFA Handbook*).

Campus-Based Programs (FPL, FWS, FSEOG)

The maximum amount that can be awarded under the campus-based programs is equal to the student's financial need (COA minus EFC) minus aid from other SFA programs and other resources. For programs of study or enrollment periods less than or greater than an academic year, the COA for loans and campus-based aid is based on the student's actual costs for the period for which need is being analyzed, rather than being prorated to the costs for a full-time student for a full academic year. The financial aid administrator has discretion in awarding amounts from each program, subject to certain limitations.

FSEOG

The FSEOG program provides grants to eligible undergraduate students. Priority is given to Federal Pell recipients who have the lowest expected family contributions. The institution decides the amount of the grant, which can be up to \$4,000 but not less than \$100, for an academic year. The maximum amount may be increased to \$4,400 for a student participating in a study abroad program that is

approved for credit by the student's home institution (34 CFR sections 676.10 and 676.20).

FPL

Annual loan maximums for the FPL Program are: \$4,000 for a student who has not successfully completed a program of undergraduate education; and \$6,000 for a graduate or professional student. The aggregate loan maximums for the FPL Program are: \$8,000 cumulative for a student who has not successfully completed two years of a program leading to a bachelor's degree, \$20,000 cumulative for a student who has successfully completed 2 years of a program leading to a bachelor's degree but who has not completed the work necessary for the degree, or \$6,000, \$40,000 cumulative for a graduate or professional student, including loans borrowed as an undergraduate student (34 CFR section 674.12 and the *Federal SFA Handbook*).

Federal Family Education Loans (FFEL, CFDA 84.032)

Federal Direct Loan Program (Direct Loan, CFDA 84.268)

In determining loan amounts for subsidized Stafford loans, the financial aid administrator subtracts from the COA, the EFC and the estimated financial assistance for the period of enrollment that the student (or parent on behalf of the student) will receive from Federal, State, institutional or other sources.

Unsubsidized Stafford loans, PLUS loans, loans made by a school to assist the student, and state-sponsored loans may be used to substitute for EFC (34 CFR sections 682.200, 682.603, 685.102, and 685.200(d)).

The annual loan limits apply to the length of the school's academic year. Except for PLUS loans and for graduate or professional students, proration of a loan is required when a program is less than an academic year as measured in either clock hours or credit hours or number of weeks; or when a program exceeds an academic year but the remaining portion of the program is less than an academic year in length. For the purpose of determining loan limits for a borrower who received an Associate or Bachelor degree and has re-enrolled in another eligible program for which the prior degree is a prerequisite, the number of years that a student has completed in a program of undergraduate study includes any prior enrollment. The loan limits described below apply to both the FFEL and Direct Loan programs and are cumulative. For example, a dependent undergraduate student who has borrowed \$10,000 in subsidized FFEL and \$13,000 in subsidized direct loans has reached the aggregate undergraduate limit of \$23,000 for both programs (34 CFR sections 682.204 and 685.203).

Annual Limits for Subsidized Loans

For an undergraduate student who has not yet successfully completed the first year of study the annual loan limit is \$2,625 for a program of study at least an academic year in length. For a program less than an academic year, the loan must

be prorated. Programs less than one-third of an academic year are not eligible for these loans.

For an undergraduate student who has successfully completed the first year but has not successfully completed the second year of an undergraduate program: (1) up to \$3,500 for a program of study at least an academic year in length, and (2) for programs with less than an academic year remaining, the loan must be prorated. Programs less than one-third of an academic year are not eligible for these loans.

For an undergraduate student who has successfully completed the first and second year of study but has not successfully completed the remainder of the program or for a student in a program who has an associate or baccalaureate degree which is required for admission into the program: (1) up to \$5,500 for a program of study at least an academic year in length, and (2) for programs with less than an academic year remaining, the loan must be prorated.

Graduate or professional students may borrow up to \$8,500 per academic year.

Annual Limits for Unsubsidized Loans

A student may receive an unsubsidized loan for the amount that is the difference between the subsidized amount for which he or she was eligible and the subsidized amount that he or she received. For dependent undergraduate students, the unsubsidized loan is the difference between the student's cost of attendance and the student's estimated financial assistance (including a subsidized loan if the student qualifies for one).

Additional eligibility for unsubsidized loans, beyond the base subsidized/unsubsidized amount, is available to all independent students and to dependent students whose parents are likely to be precluded by exceptional circumstances from receiving a PLUS loan, as determined by the SFA administrator.

For a student who has not successfully completed the first two years of undergraduate study: (1) up to \$4,000 for a program of study at least an academic year in length; and (2) for programs with less than a full academic year remaining, the loan must be prorated.

For a student who has successfully completed the first and second years of an undergraduate program but who has not successfully completed the remainder of the program: (1) up to \$5,000 for a program of study at least an academic year in length; and, (2) for programs with less than a full academic year remaining, the loan must be prorated.

Graduate or professional students may borrow up to \$10,000 per academic year.

Exceptions: Annual increased unsubsidized loan limits for certain health professions students who previously borrowed under the HEAL program are authorized. See Dear Colleague Letters GEN-96-14, GEN-97-4, GEN-97-14, GEN-98-18, GEN-98-23, GEN-99-21 and subsequent Dear Partner Colleague Letters for detailed information. Dear Partner Colleague Letters are available on the Internet (<http://ifap.ed.gov>).

Aggregate Loan Limits for Subsidized and Unsubsidized Loans

Aggregate loan limits for subsidized and unsubsidized loans is \$23,000 for a dependent undergraduate student; \$46,000 for an independent student (subsidized loan portion may not exceed \$23,000 of the aggregate limit amount); and \$138,500 for a graduate or professional student subsidized portion limited to \$65,500. This \$138,500 limit includes loans for undergraduate study.

Federal PLUS (PLUS)

PLUS loans are limited to parent borrowers of dependent undergraduate students. A PLUS loan may not exceed the student's estimated cost of attendance minus other financial aid awarded during the period of enrollment for that student (FFEL, 34 CFR sections 682.201 and 682.204; Direct Loan, 34 CFR sections 685.200 and 685.203).

2. **Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable**
3. **Eligibility for Subrecipients - Not Applicable**

G. Matching, Level of Effort, Earmarking

1. Matching

Federal Perkins Loan (CFDA 84.038)

The institution's matching share (Institutional Capital Contribution (ICC)) is one third of the Federal Capital Contribution (FCC) (or 25 percent of the combined FCC and ICC) (34 CFR section 674.8).

Federal Supplemental Educational Opportunity Grants (CFDA 84.007)

The Federal share of awards may not exceed 75 percent of the total FSEOG awards made by the school. The Secretary may authorize 100 percent Federal funding if certain conditions are met (34 CFR section 676.21).

Federal Work Study (CFDA 84.033)

Generally, the Federal share of Federal Work Study (FWS) compensation paid a student employed other than by a private for-profit organization may not exceed 75 percent of the total FWS awards made by the school. However, the Federal share may exceed 75 percent, but not exceed 90 percent, for up to ten percent of the students compensated by FWS during the academic year, if, consistent with regulations of the Secretary, the student is employed at a nonprofit private organization or a government agency that (1) is not a part of, and is not owned, operated, or controlled by, or under common ownership, operation, or control with, the institution, (2) is selected by the institution on an individual case-by-case basis for such student; and (3) would otherwise be unable to afford the costs of such employment (42 USC 2753(b)(5)).

The Federal share of FWS for work at private-for-profit organizations is limited to 50 percent. A Federal share of 100 percent is allowable in two situations: (1) (a) the institution is designated an eligible institution under the HEA Title III Strengthening Institutions Program, the Strengthening Historically Black Colleges and Universities Program, or the Historically Black Graduate Institutions Program, (b) the work is performed by the student for the institution, a public agency, or a private nonprofit organization, and (c) the increased Federal share was requested by the institution as part of its FWS application for that year; or (2) (a) the student is employed as a reading tutor for children who are in preschool through elementary school or the student is employed as a tutor in a family literacy program that provides services to families with preschool age or elementary school children, and (b) the work is performed by the student for the institution, a public agency, or a private nonprofit organization (34 CFR section 675.26).

Health Professions Student Loan (HPSL)/Primary Care Loan (PCL), CFDA 93.342, Nursing Student Loan (NSL), CFDA 93.364

The institution's matching share (ICC) is one ninth of the FCC and must be deposited in a health professions student loan fund (42 CFR sections 57.202 and 57.302).

2. **Level of Effort** - Not Applicable
3. **Earmarking**

Federal Work Study (CFDA 84.033)

An institution must use at least seven percent of the sum of its initial and supplemental FWS allocations for an award year to compensate students employed in community service activities unless waived by the Secretary. The institution can only use up to 10 percent of its FWS or \$50,000 whichever is less for a JLD program (34 CFR sections 675.18 and 675.32).

J. Program Income*Federal Perkins Loan Program (CFDA 84.038)*

Principal and interest repayments made by students and reimbursements for canceled loans are reinvested in the Federal Perkins Loan revolving fund (34 CFR section 674.8).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. *Pell Payment Data (OMB No.1845-0039)* - Schools submit Pell origination records and disbursement records to the Department through the Recipient Financial Management Service (RFMS). Origination records can be sent well in advance of any disbursements, as early as the school chooses to submit them for any student the school reasonably believes will be eligible for a payment. A school follows up with a disbursement record for that student no more than 30 days before a disbursement is to be paid (5 days in the case of a school participating in the Just-in-Time pilot). The disbursement record reports the actual disbursement date and the amount of the disbursement. ED processes origination and/or disbursement records and returns acknowledgements to the school. The acknowledgements identify the processing status of each record: Rejected, Accepted with Corrections, and Accepted. In testing the Pell Payment origination and disbursement data, the auditor should be most concerned with the data ED has categorized as accepted or accepted with corrections. Institutions must report student payment data within 30 calendar days after the school makes a payment; or becomes aware of the need to make an adjustment to previously reported student payment data or expected student payment data. Schools may do this by reporting once every 30 calendar days, bi-weekly, weekly or may set up their own system to ensure that changes are reported in a timely manner.

Key items to test on origination records are: Social Security Number, award amount, enrollment date, verification status code, transaction number, expected family contribution, cost of attendance, academic calendar and payment methodology, weeks, and clock/credit hours. Key items to test on disbursement records are disbursement date and amount.

The information may be accessed by the institution for the auditor at www.pellgrantsonline.ed.gov (34 CFR section 690.83; *Federal SFA Handbook*).

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *Fiscal Operations Report and Application to Participate (FISAP) (ED Form 646-1) (OMB No. 1845-0030)* - This electronic report is submitted annually to receive funds for the campus-based programs. The school uses the *Fiscal Operations Report* portion to report its expenditures in the previous award year and the *Application to Participate* portion to apply for the following year. FISAPs are required to be submitted by October 1 following the end of the award year (which is always June 30). For example, by October 1, 1999, the institution should submit its FISAP that includes the *Fiscal Operations Report* for the award year ended June 30, 1999, and the *Application to Participate* for the 2000-2001 award year (FPL, FWS, FSEOG 34 CFR section 673.3; *Instruction Booklet for Fiscal Operations Report and Application to Participate*).

Key Line Items - The following line items contain critical information.

Part I, Identifying Information

Part II, Application

- Information on enrollment
- Assessments and expenditures
- Information on eligible aid applicants

Part III, Federal Perkins Loan Program

- Fiscal Report (Trace material line items)
- Fund Activity (Annual) During the XXXX-XX Award Year
- Cumulative Repayment Information
- Cohort Default Rate

Part IV, Federal Supplemental Educational Opportunity Grant Program

- All sections

Part V, Federal Work-Study (FWS) Program

- All sections

Part VI, Program Summary for Award Year

- Distribution of Program Recipients and Expenditures by Type of Student (Trace a sample of line items)
- b. *FPL and Grant Overpayment Reporting to the National Student Loan Data System (NSLDS) (OMB No. 1845-0035)* - The NSLDS is a national database of information about loans and other financial aid awarded to students under Title IV. Educational and financial institutions, as well as other lending entities may enter data in NSLDS pertaining to FPL, FFEL, and William D. Ford Direct loans and Title IV grant program overpayments. Individual loan histories (loan history) and grant overpayment summaries (overpayment history) are accessible from the NSLDS Financial Aid Professional's web site within the "AID" Tab. The individual student identifier is the social security number (20 USC 1092b).

N. Special Tests and Provisions

1. Separate Funds (HPSL, NSL, FPL)

Compliance Requirement - The institution must maintain a separate fund account for each program (HPSL, 42 CFR section 57.205; NSL, 42 CFR section 57.305; and FPL, 34 CFR sections 674.8 and 674.19).

Audit Objective - Determine whether separate fund account(s) were established.

Suggested Audit Procedures

Review accounting records to verify that a separate fund was established for each program.

2. Verification

Compliance Requirement - An institution shall require each applicant whose application is selected by the central processor, based on edits specified by ED, to verify the information specified in 34 CFR section 668.56. The institution is not required to verify the applications of more than 30 percent of its total number of applicants. The institution shall also require applicants to verify any information used to calculate EFC it has reason to believe is inaccurate. The institution is required to establish written policies and procedures that incorporate provisions of 34 CFR section 668.53 for verifying this information. Acceptable documentation for the verification is listed in 34 CFR section 668.57.

Audit Objective - Determine whether the institution established policies and procedures to verify information in student aid applications, and verified all required information of selected applications in accordance with the requirements.

Suggested Audit Procedures

- a. Review the institution's policies and procedures for verifying student applications and verify that they meet the requirements of 34 CFR section 668.53.
- b. Select a sample of applications that were selected for verification and review student aid files to ascertain whether the institution obtained acceptable documentation to verify the information required.

3. Disbursements To Or On Behalf of Students

Compliance Requirement

Title IV Programs - General

The institution may not make a disbursement to a student for a payment period until the student is enrolled in classes for that payment period. The earliest an institution may disburse SFA funds (other than FWS) (either by paying the student directly or crediting the student's account) is 10 days before the first day of classes of the payment period for which the disbursement is intended. There are two exceptions to this rule. First, institutions may not disburse or deliver the first installment of FFEL or Direct Loans to first year undergraduates who are first time borrowers until 30 days after the student's first day of classes unless the institution has a cohort default rate of less than 10 percent for the three most recent fiscal years. The second exception applies to a student who is enrolled in a clock hour educational program or a credit hour program that is not offered in standard academic terms. The earliest the institution may disburse funds is the later of ten days before the first day of classes for the payment period or, except for the certain circumstances under the FFEL and Direct Loan Programs, the day the student completed the previous payment period. The exceptions for the FFEL and Direct Loan Programs are described in 34 CFR sections 682.604(c)(6)(ii), (c)(7) and (c)(8); and 685.301(b)(3)(ii), (b)(5) and (b)(6), respectively (34 CFR section 668.164).

If a student received financial aid while attending one or more other institutions, schools are required to request financial aid history using the National Student Loan Data System (NSLDS) Student Transfer Monitoring Process. (See Dear Colleague Letter GEN-01-09). Under this process, a school informs NSLDS about its transfer students. NSLDS will "monitor" those students on the school's "inform" list and "alert" the school of any relevant financial aid history changes. A school must wait seven days after it "informs" NSLDS about a transfer student before disbursing Title IV aid to that student. However, a school does not have to wait if it receives an "alert" from NSLDS during the seven-day period or if it obtains the student's financial aid history by accessing the NSLDS Financial Aid Professional web site. When a school receives an "alert" from NSLDS, before making a disbursement of Title IV aid, it must determine if the change to the student's financial aid history affects the student's eligibility. (34 CFR section 668.19;65 FR 65675).

For students whose applications were selected for verification, if the institution has reason to believe that information included in the application is inaccurate, the institution may not: (1) disburse any Pell or campus-based aid; (2) employ the applicant in its FWS program; or (3) certify FFEL loans or originate Direct Loans (or process proceeds of previously certified or originated loans) until the applicant verifies or corrects the information. If the institution doesn't have any reason to believe that the information is inaccurate, the institution may withhold payment of Pell or Campus-based aid and loan certification, or may make one disbursement of Pell or Campus-based aid, employ or allow an employer to employ an eligible student under FWS for the first 60 consecutive days after the student's enrollment and may certify the FFEL loan or originate the Direct Loan, but can't process the proceeds. If the verification process is not complete after 45 days, the institution shall return the proceeds to the lender (34 CFR section 668.58).

Pell

To disburse Pell funds, the institution must have received a valid ISIR from the central processor or a valid SAR from the student by the earlier of the deadline date established by the Secretary in a notice published in the *Federal Register* (normally the last work day in August following the end of the award year) or the last date that the student is still enrolled and eligible for payment at that institution. The institution has discretion in disbursing funds within a payment period, but must disburse the full amount before the end of the payment period. The institution must review and document the student's eligibility before it disburses funds each payment period (34 CFR sections 690.61, and 690.75 through 690.78).

FPL

If the institution is making a loan for a full academic year and uses standard academic terms, the institution must advance a portion of the loan during each payment period. If standard academic terms are not used, it must advance funds at least twice during the academic year - once at the beginning and once at the midpoint. Loan payments must be supported by a signed promissory note (34 CFR section 674.16).

FFEL

The institution must determine that the student has maintained eligibility for the FFEL loan before each disbursement of loan proceeds. Disbursements are required on a payment period basis, and the institution is required to provide the lender with a disbursement schedule. In addition, an institution under the reimbursement payment method must receive the Department's approval prior to disbursing loan funds. Loan funds provided by electronic fund transfer or master check may not be requested earlier than: 27 days after the first day of classes of the first payment period for a first-year, first-time Stafford Loan borrower; or 13 days before the first day of classes for any subsequent payment period for a first-year, first-time Stafford Loan borrower or for any payment period for all other FFEL borrowers. Loan funds must be disbursed within 10 business days of receipt if the lender provided the funds by EFT or master check after July 1, 1997, but before July 1, 1999; 3 business days if the lender provided the funds by EFT or master

check on or after July 1, 1999; or 30 days if the lender provided the funds by check payable to the borrower or copayable to the borrower and the institution (34 CFR sections 668.162, 668.164, 668.167(b), 682.603, and 682.604(d)).

If (1) a student does not register for the period of enrollment for which the loan was made, (2) a registered student withdraws or is expelled *prior to the first day of classes*; or (3) if the institution does not disburse FFEL loan proceeds to a student or parent in accordance with the time frames required in 34 CFR section 668.167(b), the institution must return the funds to the lender within 10 business days after the date the funds were required to be disbursed. Exceptions to (3) above are described in 34 CFR section 668.167(b)(3) and (c) (34 CFR section 668.167(b)(2)).

Direct Loan

Except in the case of an allowable late disbursement (34 CFR Section 685.303(d)), before disbursing the loan proceeds, the institution must determine that the student maintained continuous eligibility from the beginning of the loan period. Option 1 and Option 2 institutions may not disburse loan proceeds until they have obtained a legally enforceable promissory note. Option 1 and standard origination institutions may only disburse funds for students listed on the Actual Disbursement Roster (34 CFR sections 685.301 and 685.303).

HPSL/PCL and NSL

Student loans may be paid to or on behalf of student borrowers in installments considered appropriate by the school, except that a school may not pay to or on behalf of any borrowers more than the school determines the student needs for any given installment period (e.g., semester, term, or quarter). However, effective November 13, 1998, the amount of the loan may be increased, in the case of the third or fourth year of a student at a school of medicine or osteopathic medicine, to pay balances of loans that were made to the individual for attendance at the school (42 USC 292r(a)(2); section 722r(a)(2) of PHSA; Pub. L. No. 105-392, section 134(a)(2)). At the time of payment a HPSL borrower must be a full time student, a NSL borrower must be at least a half time student (HPSL, 42 CFR section 57.209; NSL, 42 CFR section 57.309). Each student loan must be evidenced by a properly executed promissory note (HPSL, 42 CFR section 57.208; NSL, 42 CFR section 57.308).

FWS

The student's wages are earned when the work is performed. The institution shall pay the student at least once per month. The Federal share must be paid by check or similar instrument the student can cash on his or her endorsement, or as authorized by the student, by crediting FWS funds to a student's account. The institution may only credit the account for tuition, fees, institutional room and board, and other school-provided goods and services (34 CFR section 675.16).

Audit Objective - Determine whether disbursements to students were made or returned to lenders in accordance with required time frames; and, whether required reviews were made and required documents and approvals were obtained before disbursing SFA funds.

Suggested Audit Procedures

- a. Review a sample of disbursements to students and verify that they were made or returned in accordance with required time frames and for Direct Loan Option 1 and standard origination institutions, only to the students listed on the Actual Disbursement Roster.
- b. Review loan or other files to verify that the institution performed required procedures and obtained required documents prior to disbursing funds. For institutions under the reimbursement method of payment, verify that FFEL proceeds were not disbursed until approval from the Department was obtained.

4. Return of Title IV Funds Compliance Requirements

When a recipient of Title IV grant or loan assistance withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the institution must determine the amount of Title IV aid earned by the student as of the student's withdrawal date. If the total amount of Title IV assistance earned by the student is less than the amount that was disbursed to the student or on his or her behalf as of the date of the institution's determination that the student withdrew, the difference must be returned to the Title IV programs as outlined in this section and no additional disbursements may be made to the student for the payment period or period of enrollment. If the amount the student earned is greater than the amount disbursed, the difference between the amounts must be treated as a post-withdrawal disbursement (34 CFR sections 668.22(a)(1)-(3)).

Post-withdrawal Disbursements

Post-withdrawal disbursements must be made from available grant funds before available loan funds. Post-withdrawal disbursements may be credited to the student's account if outstanding charges exist on the student's account, up to the amount of the outstanding charges. For outstanding charges other than tuition, fees, and room and board, (if contracted with the institution), the institution must have the student's (or parent's for PLUS loans) authorization to credit the student's account. If loan funds are used to credit the student's account, the institution must notify the student, or parent in the case of a PLUS loan, and provide the borrower with the opportunity to cancel all or a portion of the loan. An institution may credit a student's account for minor prior award year charges, if less than \$100 or the payment of prior year charges will not prevent the payment of current year charges.

Any amount of a post-withdrawal disbursement in excess of the amount that may be credited to the account must be provided to the student. Institutions must offer, by written notification, post-withdrawal disbursements not credited to a student's account to

the student or borrower within 30 days of the date of the institution's determination that the student withdrew. Based on the student or borrower's response or lack of response, the institution may or may not make the post-withdrawal disbursement. If a student or parent accepts a post-withdrawal disbursement, the institution must make the disbursement within 90 days of the date of the institution's determination that the student withdrew and in accordance with the request of the recipient (34 CFR sections 668.22(a)(4) and 668.164(d)(1), (d)(2) and (g)(2)).

Withdrawal Date

If an institution is required to take attendance the withdrawal date is the last date of academic attendance, as determined by the institution from its attendance records. An institution is required to take attendance if the institution is required to take attendance for some or all of its students by an entity outside of the institution (such as institution's accredited agency or State agency) (34 CFR section 668.22(b)(3)).

If an institution is not required to take attendance, the withdrawal date is: (1) the date that the student began the withdrawal process prescribed by the school; (2) the date that the student otherwise provided official notification to the school, in writing or orally, of his or her intent to withdraw; (3) if the student ceases attendance without providing official notification to the institution of his or her withdrawal, the midpoint of the payment period or, if applicable, the period of enrollment; (4) if the institution determines that a student did not begin the withdrawal process or otherwise notify the school of the intent to withdraw due to illness, accident, grievous personal loss or other circumstances beyond the student's control, the date the institution determines is related to that circumstance; (5) if a student does not return from an approved leave of absence, the date that the institution determines the student began the leave of absence; or (6) if the student takes an unapproved leave of absence, the date that the student began the leave of absence. Notwithstanding the above, an institution that is not required to take attendance may use as the withdrawal date, the last date of attendance at an academically-related activity as documented by the institution (34 CFR sections 668.22(c) and (d)).

Calculation of the Amount of Title IV Assistance Earned

The amount of earned Title IV grant or loan assistance is calculated by determining the percentage of Title IV grant or loan assistance that has been earned by the student and applying that percentage to the total amount of Title IV grant or loan assistance that was or could have been disbursed to the student for the payment period or period of enrollment as of the student's withdrawal date. A student earns 100 percent if his or her withdrawal date is after the completion of 60 percent of: (1) the payment period or period of enrollment for a program measured in credit hours; or (2) the clock hours scheduled to be completed for the payment period or period of enrollment for a program measured in clock hours. Otherwise, the percentage earned by the student is equal to the percentage of the payment period or period of enrollment that was completed as of the student's withdrawal date. The percentage of Title IV grant or loan assistance that has not been earned by the student is the complement of one of these calculations. Standard term-based institutions must always use the payment period as the basis for the determination.

The unearned amount of Title IV assistance to be returned is calculated by subtracting the amount of Title IV assistance earned by the student from the amount of Title IV aid that was disbursed to the student as of the date of the institution's determination that the student withdrew (34 CFR section 668.22(e)).

Use of Payment Period or Period of Enrollment

The treatment of Title IV grant or loan funds if a student withdraws must be determined on a payment period basis for a student who attended a standard term-based (semester, trimester or quarter) educational program. The treatment of Title IV grant or loan funds if a student withdraws may be determined on either a payment period basis or a period of enrollment basis for a student who attended a non-term based or a nonstandard term-based educational program. The institution must use the chosen period consistently for all students in the program, except that an institution may make a separate selection of payment period or period of enrollment for students that transfer to the institution or reenter the institution for students who attend a nonterm-based or nonstandard term-based program (34 CFR section 668.22(e)(5)).

Percentage of Payment Period or Period of Enrollment Completed

The percentage of the payment period completed or period of enrollment completed is determined in the case of a program that is measured in: (1) credit hours, by dividing the total number of calendar days in the payment period or period of enrollment into the number of calendar days completed in that period as of the student's withdrawal date; (2) clock hours, by dividing the total number of clock hours in the payment period or period of enrollment into the number of clock hours: (a) completed by the student in that period as of the student's withdrawal date; or (b) scheduled to be completed as of the student's withdrawal date, if the clock hours completed in the period are not less than 70 percent of the hours that were scheduled to be completed by the student as of the student's withdrawal date. The total number of calendar days in a payment or enrollment period includes all days within the period, except that institutionally scheduled breaks of at least five consecutive days and days in which the student was on an approved leave of absence are excluded from the total number of calendar days in a payment period or period of enrollment and the number of calendar days completed in that period. Excused absences do not count as completed hours for purpose of this calculation (34 CFR section 668.22(f)).

Institution's Return of Unearned Aid

The Institution must return the lesser of: (1) the total amount of unearned Title IV assistance to be returned as described above; or (2) an amount equal to the total institutional charges incurred by the student for the payment period or period of enrollment multiplied by the percentage of Title IV grant or loan assistance that has not been earned by the student. If, for a non-term program an institution chooses to calculate the treatment of Title IV assistance on a payment period basis, but the institution charges for a period that is longer than the payment period, "total institutional charges incurred by

the student for the payment period" is the greater of: (1) the prorated amount of institutional charges for the longer period, or (2) the amount of Title IV assistance retained for institutional charges as of the student's withdrawal date (34 CFR section 668.22(g)).

Student's Return of Unearned Aid

The amount a student is responsible for returning is calculated by subtracting the amount of unearned aid that the institution is required to return from the total amount of unearned Title IV assistance to be returned. However, the student need only return 50 percent of the unearned grant assistance received by the student that is the student's responsibility to repay (34 CFR sections 668.22(g) and 668.22 (h)(3) and (4)).

Allocation of Return of Title IV Funds

Returns of Title IV funds must be distributed in the order prescribed below. The prescribed order must be followed regardless of the school's agreements with other State agencies or private agencies (34 CFR section 668.22(i)).

1. Unsubsidized Federal Stafford Loan
2. Subsidized Federal Stafford Loan
3. Unsubsidized Federal Direct Stafford Loan
4. Subsidized Federal Direct Stafford Loan
5. Federal Perkins Loan
6. Federal PLUS
7. Federal Direct PLUS
8. Federal Pell Grant
9. Federal Supplemental Educational Opportunity Grant
10. Other SFA Programs

Timing of Return of Title IV Funds

Returns of Title IV funds are required to be deposited to the SFA accounts or returned to the appropriate FFEL lender within 30 days after the date the institution determines that the student withdrew.

An institution must determine the withdrawal date for a student who withdraws without providing notification to the institution no later than 30 days after the end of the earlier of the: (1) payment period or period of enrollment, (2) academic year in which the student withdrew; or (3) educational program from which the student withdrew (34 CFR section 668.22(j)).

Audit Objective - Determine whether the institution is making returns of Title IV funds in the proper amount and in a timely manner and is applying the return of Title IV funds to Federal programs as required.

Suggested Audit Procedures

- a. Identify a sample of students who withdrew or dropped out during the audit period. Review return of Title IV funds determinations/calculations for conformity with requirements.
- b. Trace the return of Title IV funds to disbursement and accounting records (including canceled checks to lenders and students) to verify that returned Title IV funds were applied to programs in the required order, that disbursements to lenders and students were made when applicable, and that credits and payments were made within required time frames.
- c. For a sample of students for which no return of Title IV funds were made, review academic records to ascertain whether the students completed the payment or enrollment period. For students who received all failing and/or incomplete grades, review attendance records to ascertain whether the students had dropped out.

5. Student Status Changes (HEAL, FFEL and William D. Ford Direct Loan)

Compliance Requirement - Each school must notify the holder of the HEAL loan of any change in the student's enrollment status within 30 days following the change in status. The school must also notify the lender of any change in the student's name. Under the FFEL and Direct Loan programs, schools must complete and return within 30 days of receipt Student Status Confirmation Reports (SSCR) sent by the National Student Loan Data System (NSLDS). SSCR data is transmitted electronically. The institution determines how often it receives the SSCR but the minimum is twice a year. Once received, the institution must correct and submit any changes electronically. Unless the school expects to complete its next student status confirmation report within 60 days, the school must notify NSLDS within 30 days, if it discovers that a student who received a loan either did not enroll or ceased to be enrolled on at least a half-time basis (HEAL, 42 CFR section 60.53; FFEL, 34 CFR section 682.610; Direct Loan, 34 CFR section 685.309). (Note: The automated process is described in the *Student Status Confirmation Report User's Guide*. Auditors may request copies of schools' SSCR history reports by contacting the NSLDS Customer Service Center at 1-800-999-8219).

Audit Objective - Determine whether the institution is promptly notifying lenders or NSLDS of changes in student status in a timely and accurate manner.

Suggested Audit Procedures

- a. Select a sample of HEAL borrowers that graduated, withdrew or dropped out during the period. Review loan or correspondence files to verify that the institution notified the lender of the change in student status within the required time frame.

- b. Select a sample of FFEL/Direct Loan borrowers that graduated, withdrew or dropped out during the period. Verify that the change in student status was reported to the lender or other appropriate party within 30 days, or was included in a student status confirmation report within 60 days.

6. Student Loan Repayments (FPL, HPSL/PCL and NSL)

Compliance Requirement - FPL loans, and HPSL and NSL loans made prior to November 13, 1998, including accrued interest, are repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10 year repayment period. For HPSL loans the repayment period is not less than 10 and not more than 25 years, at the discretion of the institution. For NSL loans after November 13, 1998, the 10 year repayment period may be extended for 10 years for any student borrower who, during the repayment period failed to make consecutive payments and who, during the last 12 months of the repayment period, has made at least 12 consecutive payments (42 USC 292r(c) and 297b(b)(8); sections 722(c) and 836(b)(8) of PHSA; Pub. L. No. 105-392, sections 133(a)(2) and 134(a)(3)). Except as required in 42 CFR section 57.210(a), a repayment of a HPSL loan must begin one year after the student ceases to be a full time student. For a NSL loan, repayment must begin nine months after the student ceases to be a full time or half time student, except as required in 42 CFR section 57.310(a). For a FPL loan, the institution must establish a repayment plan. The repayment period begins after an initial grace period of either six months or nine months after the student ceases to be at least a half-time student at an institution of higher education, depending on when the loan was made (34 CFR section 674.31(b)(2)).

Borrowers may be eligible for loan deferments or cancellations under certain circumstances. Examples of when loan payments may be deferred are when the borrower is in certain student statuses at other eligible institutions, employed as a full-time teacher at certain schools, employed full-time in other specified occupations, or serving in the military or as a volunteer in the Peace Corps, ACTION programs or other programs deemed to be comparable. Loans may be canceled based on full-time employment as a teacher at certain schools or specified fields, other qualifying employment, military or other volunteer service, and death or disability. Cancellation rates (amount of loan that is canceled for each year of qualifying service) vary, depending on the criteria. Specific requirements for deferment and cancellation vary, depending on when the loan was made. To qualify for a deferment or cancellation, the borrower is required to submit to the institution to which the loan is owed a written request for the deferment or cancellation, with documentation required by the institution, by the date established by the institution (FPL, 34 CFR sections 674.33 through 674.40, and 674.51 through 674.62; HPSL, 42 CFR sections 57.201, 57.211 and 212; NSL, 42 CFR sections 57.311 through 313a).

Institutions must exercise due care and diligence in the collection of loans (HPSL and NSL, 42 CFR section 57.210(b) and 42 CFR section 57.310(b), respectively). For the FPL, such due diligence procedures include the following:

- (1) A requirement to conduct an exit interview with the borrower before he or she leaves the institution and to contact the borrower a minimum of three times during

the initial grace period for loans with nine month grace periods or two times for loans with six month grace periods (34 CFR section 674.42).

- (2) Specific billing procedures to notify borrowers of overdue payments and to demand overdue amounts (34 CFR section 674.43).
- (3) Specific collection procedures to recover amounts from defaulted borrowers who do not respond satisfactorily to demands routinely made as part of the institution's billing procedures, including litigation procedures (34 CFR section 674.45).

Audit Objective - Determine whether institutions are processing deferment and cancellation requests and servicing loans as required.

Suggested Audit Procedures

- a. Select a sample of loans that entered repayment during the audit period and review loan records to verify that the conversion to repayment was timely, and that a repayment plan was established.
- b. Review the institution's requirements for applying for and documenting eligibility for loan deferments and cancellations. Select a sample of loan deferments and loan cancellations and review documentation to ascertain whether the deferments or cancellations were adequately supported.
- c. Select a sample of defaulted loans and review loan records to ascertain if the required interviews, contacts, billing procedures and collection procedures were carried out.

7. Federal Work Study Agreements

Compliance Requirement - FWS students may be employed by the institution, a Federal, State or local agency, a private not-for-profit organization or a private for-profit organization but the employment must not: (1) impair existing service contracts; (2) displace employees; (3) fill jobs that are vacant because the employer's regular employees are on strike; or (4) involve the construction, operation, or maintenance of any part of a facility used or to be used for religious worship or sectarian instruction. The institution must enter into a written agreement with any agency or organization providing employment under the FWS program (34 CFR sections 675.20 through 675.23).

Audit Objective - Determine whether written agreements with employers are made as required.

Suggested Audit Procedure

- a. Select a sample of participating students and ascertain if written agreements with the employers were executed.

8. Borrower Data Transmission and Reconciliation (FDL)

Compliance Requirement - Institutions must report all loan disbursements and submit required records to the Direct Loan Servicing System (DLSS) via the Loan Origination Center (LOC) within 30 days of disbursement (*OMB 1845-0021*). Each month, the LOC provides institutions with a Direct Loan School Account Statement (DLSAS) data file which consists of a Cash Summary, Cash Detail, and (optional at the request of the school) Loan Detail records. The school is required to reconcile these files to the institution's financial records. Since up to three Direct Loan program years may be open at any given time, schools may receive three DLSAS data files each month (34 CFR sections 685.102(b), 685.301, and 303). (Note: The Direct Loan School Guide and yearly training documents describe the reconciliation process. For 2001/2002, schools have the option of using the DLSAS or 732-LOS to reconcile against. If they choose the 732-LOS, the DLSAS summary is inserted into the detail of the 732-LOS. Beginning with 2002/2003, they will only have the School Account Statement (SAS) report with options on which detail reports they wish to receive. The SAS summary is required.)

Audit Objectives - Determine whether institutions are reconciling DLSAS data files to institution records each month. Determine whether dates and amounts of disbursements to borrowers recorded in the DLSS are supported by the institution's records on individual borrowers.

Suggested Audit Procedures

- a. Test a sample of the DLSAS and ascertain that reconciliations are being performed. Instructions for obtaining specific borrower information are available on the Internet at address www.ed.gov/offices/OIG/nonfed/sfa.htm.
- b. Test a sample of borrowers to verify that disbursement dates and amounts in the DLSS are supported by the institution's records.

9. Institutional Eligibility

Compliance Requirements

- a. An institution is not eligible to participate in Title IV programs if for the *award year* (year ending June 30) that ended during the institution's fiscal year (34 CFR 600.7):
 - (1) More than 50% of its courses were correspondence or telecommunications courses;
 - (2) 50% or more of its regular students (i.e., students enrolled for the purpose of obtaining a degree, certificate or diploma) were enrolled in correspondence courses;
 - (3) 25% or more of its regular students were incarcerated;

- (4) 50% or more of its regular students were enrolled as "ability-to benefit students," i.e., without a high school diploma or the recognized equivalent *and* the institution did not provide a four or two year program for which it awards a bachelor's or associate degree, respectively.
- b. The institution is prohibited from paying to any persons or entities any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to students, or student retention (34 CFR 668.14(b)(22)).
- c. Institutions not meeting ED's financial responsibility regulations may participate in student financial assistance programs under the "Zone Alternative". If the institution is participating under the "Zone Alternative", the institution must notify the Secretary of Education by certified mail or electronic or facsimile transmission within 10 days of any of the following events (34 CFR 668.175):
 - (1) Any adverse action, including a probation or similar action, taken against the institution by its accrediting agency;
 - (2) Any event that causes the institution, or related entity as defined in the Statement of Financial Accounting Standards (SFAS) 57, to realize any liability that was noted as a contingent liability in the institution's or related entity's most recent audited financial statement;
 - (3) Any violation by the institution of any loan agreement;
 - (4) Any failure of the institution to make a payment in accordance with its debt obligations that results in a creditor filing suit to recover funds under those obligation; or
 - (5) Any withdrawal of net assets from the institution by any means, or any extraordinary losses, as defined in accordance with Accounting Principles Board (APB) Opinion No.30.

Audit Objective - Determine whether the institution meets the above institutional eligibility requirements as applicable.

Suggested Audit Procedures:

- a. For the award year that ended during the fiscal year, obtain from the institution its calculation of its award year institutional eligibility ratios of correspondence and telecommunications courses, students enrolled in correspondence courses, and incarcerated and "ability-to-benefit students". Ascertain the proper classification and completeness of data and accuracy of the calculations.
- b. Ascertain from review of employment agreements and contracts and from inquiry of management and recruiters that bonuses, commissions, or other incentive

payments were not made to individuals or organizations based directly or indirectly on success in securing enrollments, financial aid to students, or student retention.

- c. When the "Zone Alternative" is applicable:
1. Review correspondence from accrediting agencies for evidence of any adverse actions against the institution.
 2. Inquire of management whether there are any violations of loan agreements or failure to pay creditors.
 3. Corroborate management's response by either reviewing or obtaining a legal representation letter to assure there have not been any legal proceedings against the institution for any violation of loan agreements or failure to pay creditors.
 4. Ascertain whether any contingent liabilities for the prior fiscal year have been realized.
 5. Review accounting records for evidence of withdrawals of net assets or extraordinary losses.

IV. OTHER INFORMATION

Pell Adjustments - The following is intended to alert auditors that their clients may request them to perform additional audit work in conjunction with the single audit, in order to claim Pell adjustments. It is not intended that this be covered otherwise.

All Pell Payment Data for an award year must be submitted by September 30 after the award year. Adjustments for Pell grants not claimed by September 30 can be made if the first audit report for the period in which the unclaimed Pell grants were made contains a finding that the institution made proper Pell awards for which it has not received either reimbursement or credit. Dear Colleague Letter (P-97-2) provides instructions to institutions for reporting the Pell adjustments and describes the auditor's responsibilities.

APPENDIX A

FEDERAL STUDENT FINANCIAL ASSISTANCE PROGRAMS

STUDENT ELIGIBILITY COMPLIANCE REQUIREMENTS

Requirements	P E L L	F W S	F S E O G	F P L	F F E L	F D L	H P S L	N S L	S D S
1. A regular student enrolled or accepted for enrollment in an eligible program (34 CFR 600.2, 668.32, 690.75, 675.9, 676.9, 674.9, 682.201, 685.200, 42 CFR 60.5, 57.206(a), 57.306(a), 57.2804)	X	X	X	X	X	X	X	X	X
2. U.S. Citizen or National (34 CFR 668.32, 690.75, 675.9, 676.9, 674.9, 682.201, 685.200; 42 CFR 60.5, 57.206(a), 57.306(a), 57.2804)	X	X	X	X	X	X	X	X	X
3. Has Financial Need (34 CFR 675.9, 676.9, 674.9, 682.201, 685.200; 42 CFR 60.51(f), 57.206, 57.306 (b), 57.2804(b)(1))	X	X	X	X	X ¹	X ¹	X	X	X
4. Does not owe a refund on a grant awarded under the Pell Grant, or FSEOG programs (34 CFR 668.32, 690.75, 675.9, 676.9, 674.9, 682.201, 685.200; 42 CFR 60.51(d), 57.206, 57.306)	X	X	X	X	X	X	X	X	
5. Not in default on any student loans (34 CFR 668.32, 690.75, 675.9, 676.9, 674.9, 682.201, 685.200; 42 CFR 60.51(d), 57.206, 57.306)	X	X	X	X	X	X	X	X	
6. Must maintain good standing, or satisfactory progress (34 CFR 668.32, 690.75, 675.9, 676.9, 674.9, 682.201, 685.200; 42 CFR 60.5(d), 57.306)	X	X	X	X	X	X	X	X	X
7. Has registered under Section 3 of the Military Selective Service Act (34 CFR 668.32, 668.37, 690.75, 675.9, 676.9, 674.9, 682.201, 685.200; 42 CFR 60.5, 57.206)	X	X	X	X	X	X	X		
8. Has a correct social security number (34 CFR 668.32, 690.75, 675.9, 676.9, 674.9, 682.201, 685.200) . . .	X	X	X	X	X	X			
9. High School Diploma or GED (34 CFR 668.32, 690.75, 675.9, 676.9, 674.9, 682.201, 685.200) . . .	X	X	X	X	X	X			
10. Above the age of compulsory school attendance in the State in which the institution he or she is attending is located (34 CFR 600.2, 600.4, 600.6, 690.75, 675.9, 676.9, 674.9, 682.201, 685.200)	X	X	X	X	X	X			
11. Ability to Benefit (34 CFR 668.32, 668 Subpart J, 690.75, 675.9, 676.9, 674.9, 682.201, 685.200) . . .	X	X	X	X	X	X			
12. In need of a loan (scholarship) to pursue a course of study at the school (42 CFR 60.5(h), 57.206(a), 57.306(a), 57.2804)							X	X	X

¹ Does not always apply to unsubsidized loans.

Requirements	P E L L	F W S	F S E O G	F P L	F F E L	F D L	H P S L	N S L	S D S
13. An undergraduate student has received for award year, a SAR or determination of eligibility or ineligibility for a Pell Grant (34 CFR 674.9, 682.201, 690.75) . . .	X			X	X				
14. Is not incarcerated (34 CFR 668.32)				X	X	X			
15. Enrolled, as at least a half-time student, in a course of study necessary for enrollment in an eligible program for not longer than one 12-month period (34 CFR 668.32)					X	X			
16. Parents can receive a PLUS loan if conditions are met (34 CFR 682.201, 685.200)					X	X			
17. Is not incarcerated in a Federal or State penal institution (34 CFR 668.32)	X								
18. Student is willing to repay the loan (34 CFR 674.9)				X					
19. Students with the lowest expected family contributions who will also receive Pell Grants in award year (34 CFR 676.10)			X						

OTHER CLUSTERS

Programs Included in this Supplement Deemed to Be Other Clusters

<u>Agency</u>	<u>CFDA No.</u>	<u>Name of Other Cluster/Program</u>
		Foreign Food Aid Donation Cluster
USDA	None	Food for Progress Program
	None	Section 416(b) Program
		Food Stamp Cluster
USDA	10.551	Food Stamps
	10.561	State Administrative Matching Grants for Food Stamp Program
		Child Nutrition Cluster
USDA	10.553	School Breakfast Program (SBP)
	10.555	National School Lunch Program (NSLP)
	10.556	Special Milk Program for Children (SMP)
	10.559	Summer Food Service Program for Children (SFSPC)
		Emergency Food Assistance Cluster
USDA	10.568	Emergency Food Assistance Program (Administrative Costs)
	10.569	Emergency Food Assistance Program (Food Commodities)
		Schools and Roads Cluster
USDA	10.665	Schools and Roads--Grants to States
	10.666	Schools and Roads--Grants to Counties
		Public Works and Economic Development Cluster
DOC	11.300	Grants for Public Works and Economic Development
	11.307	Economic Adjustment Assistance
		Section 8 Project-Based Cluster
HUD	14.182	Section 8 New Construction and Substantial Rehabilitation
	14.195	Section 8 Housing Assistance Payments Program--Special Allocations
	14.856	Lower Income Housing Assistance Program - Section 8 Moderate Rehabilitation
		CDBG - Entitlement and (HUD-Administered) Small Cities Cluster
HUD	14.218	Community Development Block Grants/Entitlement Grants
	14.219	Community Development Block Grants/Small Cities Program
		Fish and Wildlife Cluster
DOI	15.605	Sport Fish Restoration
	15.611	Wildlife Restoration
		Employment Services Cluster
DOL	17.207	Employment Service
	17.801	Disabled Veterans' Outreach Program (DVOP)
	17.804	Local Veterans' Employment Representative Program (LVER)

		WIA Cluster
DOL	17.258	WIA Adult Program
	17.259	WIA Youth Activities
	17.260	WIA Dislocated Workers
		Highway Planning and Construction Cluster
DOT	20.205	Highway Planning and Construction
	23.003	Appalachian Development Highway System
		Federal Transit Cluster
DOT	20.500	Federal Transit--Capital Investment
	20.507	Federal Transit--Formula Grants
		Highway Safety Cluster
DOT	20.600	State and Community Highway Safety
	20.601	Alcohol Traffic Safety and Drunk Driving Prevention Incentive Grants
	20.602	Occupant Protection
	20.603	Federal Highway Safety Data Improvements Incentive Grants
	20.604	Safety Incentive Grants for Use of Seatbelts
	20.605	Safety Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons
		Special Education Cluster
ED	84.027	Special Education--Grants to States (IDEA, Part B)
	84.173	Special Education--Preschool Grants (IDEA Preschool)
		TRIO Cluster
ED	84.042	TRIO--Student Support Services
	84.044	TRIO--Talent Search
	84.047	TRIO--Upward Bound
	84.066	TRIO--Educational Opportunity Centers
	84.217	McNair Post-Baccalaureate Achievement
		Bilingual Education Cluster
ED	84.288	Bilingual Education--Program Development and Implementation Grants
	84.290	Bilingual Education--Comprehensive School Grants
	84.291	Bilingual Education--Systemwide Improvement Grants
		Aging Cluster
HHS	93.044	Special Programs for the Aging--Title III, Part B--Grants for Supportive Services and Senior Centers
	93.045	Special Programs for the Aging--Title III, Part C--Nutrition Services
		Consolidated Health Centers Cluster
HHS	93.151	Health Centers Grants for Homeless Populations (HCH)
	93.224	Community Health Centers (CHC)
	93.246	Health Centers Grants for Migratory and Seasonal Farm Workers (MHC)

		Child Care Cluster
HHS	93.575	Child Care and Development Block Grant
	93.596	Child Care Mandatory and Matching Funds of the Child Care and Development Fund
		Medicaid Cluster
HHS	93.778	Medical Assistance Program (Medicaid)
	93.775	State Medicaid Fraud Control Units
	93.777	State Survey and Certification of Health Care Providers and Suppliers
		HIV Cluster
HHS	93.914	HIV Emergency Relief Project Grants
	93.915	HIV Emergency Relief Project Grants
		(See explanation under "IV. Other Information" on page 4-93.914-7)
		Foster Grandparent/Senior Companion Cluster
CNS	94.011	Foster Grandparent Program
	94.016	Senior Companion Program
		Disability Insurance/SSI Cluster
SSA	96.001	Social Security--Disability Insurance (DI)
	96.006	Supplemental Security Income (SSI)

Programs Not Included in this Supplement Deemed to Be Other Clusters

<u>Agency</u>	<u>CFDA No.</u>	<u>Name of Other Cluster/Program</u>
USDA	10.415 10.427	Rural Rental Housing Cluster Rural Rental Housing Loans Rural Rental Assistance Payments

PART 6 - INTERNAL CONTROL

INTRODUCTION

The A-102 Common Rule and OMB Circular A-110 require that non-Federal entities receiving Federal awards (e.g., auditee management) establish and maintain internal control designed to reasonably ensure compliance with Federal laws, regulations, and program compliance requirements. OMB Circular A-133 requires auditors to obtain an understanding of the non-Federal entity's internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs, 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, unless internal control is likely to be ineffective, perform testing of internal control as planned.

This Part 6 is intended to assist non-Federal entities and their auditors in complying with these requirements by describing for each type of compliance requirement, the objectives of internal control, and certain characteristics of internal control that when present and operating effectively may ensure compliance with program requirements. However, the categorizations reflected in this Part 6 may not necessarily reflect how an entity considers and implements internal control. Also, this part is not a checklist of required internal control characteristics. Non-Federal entities could have adequate internal control even though some or all of the characteristics included in Part 6 are not present. Further, non-Federal entities could have other appropriate internal controls operating effectively that have not been included in this Part 6. Non-Federal entities and their auditors will need to exercise judgment in determining the most appropriate and cost effective internal control in a given environment or circumstance to provide reasonable assurance for compliance with Federal program requirements.

The objectives of internal control pertaining to the compliance requirements for Federal programs (Internal control over Federal Programs), as found in §____.105 of OMB Circular A-133, are as follows:

- (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 supplements; and

- (3) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

The characteristics of internal control are presented in the context of the components of internal control discussed in *Internal Control-Integrated Framework* (COSO Report), published by the Committee of Sponsoring Organizations of the Treadway Commission. The COSO Report provides a framework for organizations to design, implement, and evaluate control that will facilitate compliance with the requirements of Federal laws, regulations, and program compliance requirements. Statement on Auditing Standards No. 78 (SAS 78), *Consideration of Internal Control in a Financial Statement Audit*, issued by the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA) and a related AICPA audit guide, *Consideration of Internal Control in a Financial Statement Audit*, incorporate the components of internal control presented in the COSO Report.

This Part 6 describes characteristics of internal control relating to each of the five components of internal control that should reasonably assure compliance with the requirements of Federal laws, regulations, and program compliance requirements. A description of the components of internal control and examples of characteristics common to the 14 types of compliance requirements are listed below. Objectives of internal control and examples of characteristics specific to each of 13 of the 14 types of compliance requirements follow this introduction. (Because Special Tests and Provisions are unique for each program, we could not provide specific control objectives and characteristics for this type of compliance requirement.)

Control Environment sets the tone of an organization influencing the control consciousness of its people. It is the foundation for all other components of internal control, providing discipline and structure.

- Sense of conducting operations ethically, as evidenced by a code of conduct or other verbal or written directive.
- If there is a governing Board, the Board has established an Audit Committee or equivalent that is responsible for engaging the auditor, receiving all reports and communications from the auditor, and ensuring that audit findings and recommendations are adequately addressed.
- Management's positive responsiveness to prior questioned costs and control recommendation.
- Management's respect for and adherence to program compliance requirements.
- Key managers' responsibilities clearly defined.
- Key managers' have adequate knowledge and experience to discharge their responsibilities.
- Staff knowledgeable about compliance requirements and being given responsibility to communicate all instances of noncompliance to management.
- Management's commitment to competence ensures that staff receive adequate training to perform their duties.
- Management's support of adequate information and reporting system.

Risk Assessment is the entity's identification and analysis of relevant risks to achievement of its objectives, forming a basis for determining how the risks should be managed.

- Program managers and staff understand and have identified key compliance objectives.
- Organizational structure provides identification of risks of noncompliance:

- Key managers have been given responsibility to identify and communicate changes.
- Employees who require close supervision (e.g. inexperienced) are identified.
- Management has identified and assessed complex operations, programs, or projects.
- Management is aware of results of monitoring, audits, and reviews and considers related risk of noncompliance.
- Process established to implement changes in program objectives and procedures.

Control Activities are the policies and procedures that help ensure that management's directives are carried out.

- Operating policies and procedures clearly written and communicated.
- Procedures in place to implement changes in laws, regulations, guidance, and funding agreements affecting Federal awards.
- Management prohibition against intervention or overriding established controls.
- Adequate segregation of duties provided between performance, review, and recordkeeping of a task.
- Computer and program controls should include:
 - Data entry controls, e.g., edit checks.
 - Exception reporting.
 - Access controls.
 - Reviews of input and output data.
 - Computer general controls and security controls.
- Supervision of employees commensurate with their level of competence.
- Personnel with adequate knowledge and experience to discharge responsibilities.
- Equipment, inventories, cash, and other assets secured physically and periodically counted and compared to recorded amounts.
- If there is a governing Board, the Board conducts regular meetings where financial information is reviewed and the results of program activities and accomplishments are discussed. Written documentation is maintained of the matters addressed at such meetings.

Information and Communication are the identification, capture, and exchange of information in a form and time frame that enable people to carry out their responsibilities.

- Accounting system provides for separate identification of Federal and non-Federal transactions and allocation of transactions applicable to both.
- Adequate source documentation exists to support amounts and items reported.
- Recordkeeping system is established to ensure that accounting records and documentation retained for the time period required by applicable requirements; such as the A-102 Common Rule (§____.42), OMB Circular A-110 (§____.53), and the provisions of laws, regulations, contracts or grant agreements applicable to the program.
- Reports provided timely to managers for review and appropriate action.
- Accurate information is accessible to those who need it.
- Reconciliations and reviews ensure accuracy of reports.
- Established internal and external communication channels.

- Staff meetings.
- Bulletin boards.
- Memos, circulation files, e-mail.
- Surveys, suggestion box.
- Employees' duties and control responsibilities effectively communicated.
- Channels of communication for people to report suspected improprieties established.
- Actions taken as a result of communications received.
- Established channels of communication between pass-through entity and subrecipients.

Monitoring is a process that assesses the quality of internal control performance over time.

- Ongoing monitoring built-in through independent reconciliations, staff meeting feed back, rotating staff, supervisory review, and management review of reports.
- Periodic site visits performed at decentralized locations (including subrecipients) and checks performed to determine whether procedures are being followed as intended.
- Follow up on irregularities and deficiencies to determine the cause.
- Internal quality control reviews performed.
- Management meets with program monitors, auditors, and reviewers to evaluate the condition of the program and controls.
- Internal audit routinely tests for compliance with Federal requirements.
- If there is a governing Board, the Board reviews the results of all monitoring or audit reports and periodically assess the adequacy of corrective action.

A. ACTIVITIES ALLOWED OR UNALLOWED and B. ALLOWABLE COSTS/COST PRINCIPLES

Control Objectives

To provide reasonable assurance that Federal awards are expended only for allowable activities and that the costs of goods and services charged to Federal awards are allowable and in accordance with the applicable cost principles.

Control Environment

- Management sets reasonable budgets for Federal and non-Federal programs so that no incentive exists to miscode expenditures.
- Management enforces appropriate penalties for misappropriation or misuse of funds.
- Organization-wide cognizance of need for separate identification of allowable Federal costs.
- Management provides personnel approving and pre-auditing expenditures with a list of allowable and unallowable expenditures.

Risk Assessment

- Process for assessing risks resulting from changes to cost accounting systems.
- Key manager has a sufficient understanding of staff, processes, and controls to identify where unallowable activities or costs could be charged to a Federal program and not be detected.

Control Activities

- Accountability provided for charges and costs between Federal and non-Federal activities.
- Process in place for timely updating of procedures for changes in activities allowed and cost principles.
- Computations checked for accuracy.
- Supporting documentation compared to list of allowable and unallowable expenditures.
- Adjustments to unallowable costs made where appropriate and follow-up action taken to determine the cause.
- Adequate segregation of duties in review and authorization of costs.
- Accountability for authorization is fixed in an individual who is knowledgeable of the requirements for determining activities allowed and allowable costs.

Information and Communication

- Reports, such as a comparison of budget to actual provided to appropriate management for review on a timely basis.
- Establishment of internal and external communication channels on activities and costs allowed.

- Training programs, both formal and informal, provide knowledge and skills necessary to determine activities and costs allowed.
- Interaction between management and staff regarding questionable costs.
- Grant agreements (including referenced program laws, regulations, handbooks, etc.) and cost principles circulars available to staff responsible for determining activities allowed and allowable costs under Federal awards.

Monitoring

- Management reviews supporting documentation of allowable cost information.
- Flow of information from Federal agency to appropriate management personnel.
- Comparisons made with budget and expectations of allowable costs.
- Analytic reviews (e.g., comparison of budget to actual or prior year to current year) and audits performed.

C. CASH MANAGEMENT

Control Objectives

To provide reasonable assurance that the draw down of Federal cash is only for immediate needs, States comply with applicable Treasury agreements, and recipients limit payments to subrecipients to immediate cash needs.

Control Environment

- Appropriate assignment of responsibility for approval of cash draw downs and payments to subrecipients.
- Budgets for draw downs are consistent with realistic cash needs.

Risk Assessment

- Mechanisms exist to anticipate, identify, and react to routine events that affect cash needs.
- Routine assessment of adequacy of subrecipient cash needs.
- Management has identified programs which receive cash advances and is aware of cash management requirements.

Control Activities

- Cash flow statements by program are prepared to determine essential cash flow needs.
- Accounting system is capable of scheduling payments for accounts payable and requests for funds from Treasury to avoid time lapse between draw down of funds and actual disbursements of funds.
- Appropriate level of supervisory review of cash management activities.
- Written policy that provides:
 - Procedures for requesting cash advances as close as is administratively possible to actual cash outlays;
 - Monitoring of cash management activities;
 - Repayment of excess interest earnings where required.
- For State programs subject to a Treasury-State agreement, a written policy exists which includes:
 - Programs covered by the agreement;
 - Methods of funding to be used;
 - Method used to calculate interest; and
 - Procedures for determining check clearing patterns (if applicable for the funding method).

Information and Communication

- Variance reporting of expected versus actual cash disbursements of Federal awards and draw downs of Federal funds.

- Established channel of communication between pass-through entity and subrecipients regarding cash needs.

Monitoring

- Periodic independent evaluation (e.g. by internal audit, top management) of entity cash management, budget and actual results, repayment of excess interest earnings, and Federal draw down activities.
- Subrecipients requests for Federal funds are evaluated.
- Review of compliance with Treasury-State agreements.

D. DAVIS-BACON ACT

Control Objectives

To provide reasonable assurance that contractors and subcontractors were properly notified of the Davis-Bacon Act requirements and the required certified payrolls were submitted to the non-Federal entity.

Control Environment

- Management understands and communicates to staff, contractors, and subcontractors the requirements to pay wages in accordance with the Davis-Bacon Act.
- Management understands its responsibility for monitoring compliance.

Risk Assessment

- Mechanisms in place to identify contractors and subcontractors most at risk of non-compliance.
- Management identified how compliance will be monitored and the related risks of failure to monitor for compliance with Davis-Bacon Act.

Control Activities

- Contractors informed in the procurement documents of the requirements for prevailing wage rates.
- Contractors and subcontractors are required by contract to submit certifications and copies of payrolls.
- Contractors' and subcontractors' payrolls monitored to ensure certified payrolls are submitted.

Information and Communication

- Prevailing wage rates requirements are appropriately communicated.
- Reports provide sufficient information to determine if requirements are being met.
- Channels are established for staff to report non-compliance.

Monitoring

- Management reviews to ensure that contractors and subcontractors are properly notified of the Davis-Bacon Act requirements.
- Management reviews to ensure that certified payrolls are properly received.

E. ELIGIBILITY

Control Objectives

To provide reasonable assurance that only eligible individuals and organizations receive assistance under Federal award programs, that subawards are made only to eligible subrecipients, and that amounts provided to or on behalf of eligibles were calculated in accordance with program requirements.

Control Environment

- Staff size and competence provides for proper making of eligibility determinations.
- Realistic caseload/performance targets established for eligibility determinations.
- Lines of authority clear for determining eligibility.

Risk Assessment

- Identification of risk that eligibility information prepared internally or received from external sources could be incorrect.
- Conflict-of-interest statements are maintained for individuals who determine eligibility.
- Process for assessing risks resulting from changes to eligibility determination systems.

Control Activities

- Written policies provide direction for making and documenting eligibility determinations.
- Procedures to calculate eligibility amounts consistent with program requirements.
- Eligibility objectives and procedures clearly communicated to employees.
- Authorized signatures (manual or electronic) on eligibility documents periodically reviewed.
- Access to eligibility records limited to appropriate persons.
- Manual criteria checklists or automated process used in making eligibility determinations.
- Process for periodic eligibility re-determinations in accordance with program requirements.
- Verification of accuracy of information used in eligibility determinations.
- Procedures to ensure the accuracy and completeness of data used to determine eligibility requirements.

Information and Communication

- Information system meets needs of eligibility decisionmakers and program management.
- Processing of eligibility information subject to edit checks and balancing procedures.
- Training programs inform employees of eligibility requirements.
- Channels of communication exist for people to report suspected eligibility improprieties.
- Management receptive to suggestions to strengthen eligibility determination process.
- Documentation of eligibility determinations in accordance with program requirements.

Monitoring

- Periodic analytical reviews of eligibility determinations performed by management.
- Program quality control procedures performed.
- Periodic audits of detailed transactions.

F. EQUIPMENT AND REAL PROPERTY MANAGEMENT

Control Objectives

To provide reasonable assurance that proper records are maintained for equipment acquired with Federal awards, equipment is adequately safeguarded and maintained, disposition or encumbrance of any equipment or real property is in accordance with Federal requirements, and the Federal awarding agency is appropriately compensated for its share of any property sold or converted to non-Federal use.

Control Environment

- Management committed to providing proper stewardship for property acquired with Federal awards.
- No incentives exist to under-value assets at time of disposition.
- Sufficient accountability exists to discourage temptation of misuse of Federal assets.

Risk Assessment

- Procedures to identify risk of misappropriation or improper disposition of property acquired with Federal awards.
- Management understands requirements and operations sufficiently to identify potential areas of noncompliance (e.g., decentralized locations, departments with budget constraints, transfers of assets between departments).

Control Activities

- Accurate records maintained on all acquisitions and dispositions of property acquired with Federal awards.
- Property tags are placed on equipment.
- A physical inventory of equipment is periodically taken and compared to property records.
- Property records contain description (including serial number or other identification number), source, who holds title, acquisition date and cost, percentage of Federal participation in the cost, location, condition, and disposition data.
- Procedures established to ensure that the Federal awarding agency is appropriately reimbursed for dispositions of property acquired with Federal awards.
- Policies and procedures in place for responsibilities of recordkeeping and authorities for disposition.

Information and Communication

- Accounting system provides for separate identification of property acquired wholly or partly with Federal funds and with non-Federal funds.
- A channel of communication exists for people to report suspected improprieties in the use or disposition of equipment.
- Program managers are provided with applicable requirements and guidelines.

Monitoring

- Management reviews the results of periodic inventories and follows up on inventory discrepancies.
- Management reviews dispositions of property to ensure appropriate valuation and reimbursement to Federal awarding agencies.

G. MATCHING, LEVEL OF EFFORT, EARMARKING

Control Objectives

To provide reasonable assurance that matching, level of effort, or earmarking requirements are met using only allowable funds or costs which are properly calculated and valued.

Control Environment

- Commitment from management to meet matching, level of effort, and earmarking requirements (e.g., adequate budget resources to meet a specified matching requirement or maintain a required level of effort).
- Budgeting process addresses/provides adequate resources to meet matching, level of effort, or earmarking goals.
- Official written policy exists outlining:
 - Responsibilities for determining required amounts or limits for matching, level of effort, or earmarking.
 - Methods of valuing matching requirements, e.g., "in-kind" contributions of property and services, calculations of levels of effort.
 - Allowable costs that may be claimed for matching, level of effort, or earmarking.
 - Methods of accounting for and documenting amounts used to calculate amounts claimed for matching, level of effort, or earmarking.

Risk Assessment

- Identification of areas where estimated values will be used for matching, level of effort, or earmarking.
- Management has sufficient understanding of the accounting system to identify potential recording problems.

Control Activities

- Evidence obtained such as a certification from the donor, or other procedures performed to identify whether matching contributions:
 - Are from non-Federal sources.
 - Involve Federal funding, directly or indirectly.
 - Were used for another federally-assisted program.

Note: Generally, matching contributions must be from a non-Federal source and may not involve Federal funding or be used for another federally-assisted program.
- Adequate review of monthly cost reports and adjusting entries.

Information and Communication

- Accounting system capable of:
 - Separately accounting for data used to support matching, level of effort, or earmarking amounts or limits or calculations.

- Ensuring that expenditures or expenses, refunds, and cash receipts or revenues are properly classified and recorded only once as to their effect on matching, level of effort, or earmarking.
- Documenting the value of "in-kind" contributions of property or services, including:
 - Basis for local labor market rates for valuing volunteer services.
 - Payroll records or confirmation from other organizations for services provided by their employees.
 - Quotes, published prices, or independent appraisals used as the basis for donated equipment, supplies, land, buildings, or use of space.

Monitoring

- Supervisory review of matching, level of effort, or earmarking activities performed to assess the accuracy and allowability of transactions and determinations, e.g., at the time reports on Federal awards are prepared.

H. PERIOD OF AVAILABILITY OF FEDERAL FUNDS

Control Objectives

To provide reasonable assurance that Federal funds are used only during the authorized period of availability.

Control Environment

- Management understands and is committed to complying with period of availability requirements.
- Entity's operations are such that it is unlikely there will be Federal funds remaining at the end of the period of availability.

Risk Assessment

- The budgetary process considers period of availability of Federal funds as to both obligation and disbursement.
- Identification and communication of period of availability cut-off requirements as to both obligation and disbursement.

Control Activities

- Accounting system prevents obligation or expenditure of Federal funds outside of the period of availability.
- Review of disbursements by person knowledgeable of period of availability of funds.
- End of grant period cut-offs are met by such mechanisms as advising program managers of impending cut-off dates and review of expenditures just before and after cut-off date.
- Cancellation of unliquidated commitments at the end of the period of availability.

Information and Communication

- Timely communication of period of availability requirements and expenditure deadlines to individuals responsible for program expenditure, including automated notifications of pending deadlines.
- Periodic reporting of unliquidated balances to appropriate levels of management and follow up.

Monitoring

- Periodic review of expenditures before and after cut-off date to ensure compliance with period of availability requirements.
- Review by management of reports showing budget and actual for period.

I. PROCUREMENT AND SUSPENSION DEBARMENT

Control Objectives

To provide reasonable assurance that procurement of goods and services are made in compliance with the provisions of the A-102 Common Rule or OMB Circular A-110, as applicable, and that no subaward, contract, or agreement for purchases of goods or services is made with any debarred or suspended party.

Control Environment

- Existence and implementation of codes of conduct and other policies regarding acceptable practice, conflicts-of-interest, or expected standards of ethical and moral behavior for making procurements.
- Procurement manual that incorporated Federal requirements.
- Absence of pressure to meet unrealistic procurement performance targets.
- Management's prohibition against intervention or overriding established procurement controls.
- Board or governing body oversight required for high dollar, lengthy, or other sensitive procurement contracts.
- Adequate knowledge and experience of key procurement managers in light of responsibilities for procurements for Federal awards.
- Clear assignment of authority for issuing purchasing orders and contracting for goods and services.

Risk Assessment

- Procedures to identify risks arising from vendor inadequacy, e.g., quality of goods and services, delivery schedules, warranty assurances, user support.
- Procedures established to identify risks arising from conflicts-of-interest, e.g., kickbacks, related party transactions, bribery.
- Management understands the requirements for procurement and suspension and debarment, and, given the organization's staff, departments, and processes, has identified where noncompliance could likely occur.
- Conflict-of-interest statements are maintained for individuals with responsibility for procurement of goods or services.

Control Activities

- Job descriptions or other means of defining tasks that comprise particular procurement jobs.
- Contractor's performance with the terms, conditions, and specifications of the contract is monitored and documented.
- Establish segregation of duties between employees responsible for contracting and accounts payable and cash disbursing.
- Procurement actions appropriately documented in the procurement files.

- Supervisors review procurement and contracting decisions for compliance with Federal procurement policies.
- Procedures established to verify that vendors providing goods and services under the award have not been suspended or debarred by the Federal Government.
- Official written policy for procurement and contracts establishing:
 - Contract files that document significant procurement history.
 - Methods of procurement, authorized including selection of contract type, contractor selection or rejection, and the basis of contract price.
 - Verification that procurements provide full and open competition.
 - Requirements for cost or price analysis, including for contract modifications.
 - Obtaining and reacting to suspension and debarment certifications.
 - Other applicable requirements for procurements under Federal awards are followed.
- Official written policy for suspension and debarments that:
 - Contains or references the Federal requirements;
 - Prohibits the award of a subaward, covered contract, or any other covered agreement for program administration, goods, services, or any other program purpose with any suspended or debarred party; and
 - Requires staff to obtain certifications from entities receiving subawards (contract and subcontract) over \$100,000, certifying that the organization and its principals are not suspended or debarred.

Information and Communication

- A system in place to assure that procurement documentation is retained for the time period required by the A-102 Common Rule, OMB Circular A-110, award agreements, contracts, and program regulations. Documentation includes:
 - The basis for contractor selection;
 - Justification for lack of competition when competitive bids or offers are not obtained; and
 - The basis for award cost or price.
- Employees' procurement duties and control responsibilities are effectively communicated.
- Procurement staff are provided a current *List of Parties Excluded from Federal Procurement or Nonprocurement Programs*, issued by the General Services Administration, or have on-line access.
- Channels of communication are provided for people to report suspected procurement and contracting improprieties.

Monitoring

- Management periodically conducts independent reviews of procurements and contracting activities to determine whether policies and procedures are being followed as intended.

J. PROGRAM INCOME

Control Objectives

To provide reasonable assurance that program income is correctly earned, recorded, and used in accordance with the program requirements.

Control Environment

- Management recognizes its responsibilities for program income.
- Management's prohibition against intervention or overriding controls over program income.
- Realistic performance targets for the generation of program income.

Risk Assessment

- Mechanisms in place to identify the risk of unrecorded or mis-coded program income.
- Variances between expected and actual income analyzed.

Control Activities

- Pricing and collection policies procedures clearly communicated to personnel responsible for program income.
- Mechanism in place to ensure that program income is properly recorded as earned and deposited in the bank as collected.
- Policies and procedures provide for correct use of program income in accordance with Federal program requirements.

Information and Communication

- Information systems identify program income collections and usage.
- A channel of communication for people to report suspected improprieties in the collection or use of program income.

Monitoring

- Internal audit of program income.
- Management compares program income to budget and investigates significant differences.

K. REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE

Control Objectives

To provide reasonable assurance of compliance with the real property acquisition, appraisal, negotiation, and relocation requirements.

Control Environment

- Management committed to ensuring compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).
- Written policies exist for handling relocation assistance and real property acquisition.

Risk Assessment

- Identification of risk that relocation will not be conducted in accordance with the URA, e.g., improper payments will be made to individuals or businesses that relocate.

Control Activities

- Employees handling relocation assistance and real property acquisition have been trained in the requirements of the URA.
- Review of expenditures pertaining to real property acquisition and relocation assistance by employees knowledgeable in the URA.

Information and Communication

- A system is in place to adequately document relocation assistance and real property acquisition.

Monitoring

- Management monitors relocation assistance and real property acquisition for compliance with the URA.

L. REPORTING

Control Objectives

To provide reasonable assurance that reports of Federal awards submitted to the Federal awarding agency or pass-through entity include all activity of the reporting period, are supported by underlying accounting or performance records, and are fairly presented in accordance with program requirements.

Control Environment

- Persons preparing, reviewing, and approving the reports possess the required knowledge, skills, and abilities.
- Management's attitude toward reporting promotes accurate and fair presentation.
- Appropriate assignment of responsibility and delegation of authority for reporting decisions.

Risk Management

- Mechanisms exist to identify risks of faulty reporting caused by such items as lack of current knowledge of, inconsistent application of, or carelessness or disregard for standards and reporting requirements of Federal awards.
- Identification of underlying source data or analysis for performance or special reporting that may not be reliable.

Control Activities

- Written policy exists that establishes responsibility and provides the procedures for periodic monitoring, verification, and reporting of program progress and accomplishments.
- Tracking system which reminds staff when reports are due.
- The general ledger or other reliable records are the basis for the reports.
- Supervisory review of reports performed to assure accuracy and completeness of data and information included in the reports.
- The required accounting method is used (e.g., cash or accrual).

Information and Communication

- An accounting or information system that provides for the reliable processing of financial and performance information for Federal awards.

Monitoring

- Communications from external parties corroborate information included in the reports for Federal awards.
- Periodic comparison of reports to supporting records.

M. SUBRECIPIENT MONITORING

Control Objectives

To provide reasonable assurance that Federal award information and compliance requirements are identified to subrecipients, subrecipient activities are monitored, subrecipient audit findings are resolved, and the impact of any subrecipient noncompliance on the pass-through entity is evaluated. Also, the pass-through entity should perform procedures to provide reasonable assurance that the subrecipient obtained required audits and takes appropriate corrective action on audit findings.

Control Environment

- Establishment of "tone at the top" of management's commitment to monitoring subrecipients.
- Management's intolerance of overriding established procedures to monitor subrecipients.
- Entity's organizational structure and its ability to provide the necessary information flow to monitor subrecipients is adequate.
- Sufficient resources dedicated to subrecipient monitoring.
- Knowledge, skills, and abilities needed to accomplish subrecipient monitoring tasks defined.
- Individuals performing subrecipient monitoring possess knowledge skills and abilities required.
- Subrecipients demonstrate that:
 - They are willing and able to comply with the requirements of the award and
 - They have accounting systems, including the use of applicable cost principles, and internal control systems adequate to administer the award.
- Appropriate sanctions taken for subrecipient noncompliance.

Risk Assessment

- Key managers understand the subrecipient's environment, systems, and controls sufficient to identify the level and methods of monitoring required.
- Mechanisms exist to identify risks arising from external sources affecting subrecipients, such as risks related to:
 - Economic conditions.
 - Political conditions.
 - Regulatory changes.
 - Unreliable information.
- Mechanisms exist to identify and react to changes in subrecipients, such as:
 - Financial problems that could lead to diversion of grant funds.
 - Loss of essential personnel.
 - Loss of license or accreditation to operate program.
 - Rapid growth.
 - New activities, products, or services.
 - Organizational restructuring.

Control Activities

- Identify to subrecipients the Federal award information (e.g., CFDA title and number, award name, name of Federal agency, amount of award) and applicable compliance requirements.
- Include in agreements with subrecipients the requirement to comply with the compliance requirements applicable to the Federal program including the audit requirements of OMB Circular A-133.
- Subrecipient's compliance with audit requirements monitored using techniques such as the following:
 - Determining by inquiry and discussions whether subrecipient met thresholds requiring an audit under OMB Circular A-133.
 - If an audit is required, assuring that the subrecipient submits the report, report package or the documents required by OMB circulars and/or recipient's requirements.
 - If a subrecipient was required to obtain an audit in accordance with OMB Circular A-133 but did not do so, following up with the subrecipient until the audit is completed. Taking appropriate actions such as withholding further funding until the subrecipient meets the audit requirements.
- Subrecipient's compliance with Federal program requirements monitored using such techniques as the following:
 - Issuing timely management decisions for audit and monitoring findings to inform the subrecipient whether the corrective action planned is acceptable.
 - Maintain a system to track and following-up on reported deficiencies related to programs funded by the recipient and ensure that timely corrective action is taken.
 - Regular contacts with subrecipients and appropriate inquiries concerning the Federal program
 - Reviewing subrecipient reports and following-up on areas of concern.
 - Monitoring subrecipient budgets.
 - Performing site visits to subrecipient to review financial and programmatic records and observe operations.
 - Offering subrecipients technical assistance where needed.
- Official written policies and procedures exist establishing:
 - Communication of Federal award requirements to subrecipients.
 - Responsibilities for monitoring subrecipients.
 - Process and procedures for monitoring.
 - Methodology for resolving findings of subrecipient noncompliance or weaknesses in internal control.
 - Requirements for and processing of subrecipient audits, including appropriate adjustment of pass-through entity's accounts.

Information and Communication

- Standard award documents used by the non-Federal entity contain:
 - A listing of Federal requirements that the subrecipient must follow. Items can be specifically listed in the award document, attached as an exhibit to the document, or incorporated by reference to specific criteria.

- The description and program number for each program as stated in the Catalog of Federal Domestic Assistance (CFDA). If the program funds include pass-through funds from another recipient, the pass-through program information should also be identified.
- A statement signed by an official of the subrecipient, stating that the subrecipient was informed of, understands, and agrees to comply with the applicable compliance requirements.
- A recordkeeping system is in place to assure that documentation is retained for the time period required by the recipient.
- Procedures are in place to provide channels for subrecipients to communicate concerns to the pass-through entity.

Monitoring

- Establish a tracking system to assure timely submission of required reporting, such as: financial reports, performance reports, audit reports, on-site monitoring reviews of subrecipients, and timely resolution of audit findings.
- Supervisory reviews performed to determine the adequacy of subrecipient monitoring.

PART 7 - GUIDANCE FOR AUDITING PROGRAMS NOT INCLUDED IN THIS COMPLIANCE SUPPLEMENT

Purpose - OMB Circular A-133 (§___.500(d)(3)) states that for those Federal programs not covered in the compliance supplement, the auditor should use the types of compliance requirements (see 14 types of compliance requirements described in Part 3) contained in the compliance supplement (this 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 contract and grant agreements and the laws and regulations referred in such contract and grant agreements.

The purpose of this Part is to provide the auditor with guidance on how to identify the applicable compliance requirements for programs not included in this Supplement for single audits and for program-specific audits when a program-specific audit guide is not available. This Supplement only includes the largest and/or riskiest Federal programs. However, there are more than 600 assistance programs currently funded by the Federal Government. Therefore, it is likely that the auditor will encounter programs that the auditor is required to test as major programs which are not included in this Supplement. For this reason, the following guidance is provided for the auditor to identify those compliance requirements that should be tested.

Organization of this Supplement - First, a review of how this Supplement is organized will be helpful, since the auditor must consider several parts of the Supplement in identifying compliance requirements to be tested. This Supplement is comprised of the following parts:

- Part 1 - Background, Purpose, and Applicability
- Part 2 - Matrix of Compliance Requirements
- Part 3 - Compliance Requirements
- Part 4 - Agency Program Requirements
- Part 5 - Clusters of Programs
- Part 6 - Internal Control
- Part 7 - Guidance for Auditing Programs Not Included in This Compliance Supplement

In determining the compliance requirements to test for programs not included in this Supplement, the auditor shall refer to Parts 3 and 5. Part 3 identifies and describes the 14 types of compliance requirements where noncompliance may have a direct and material effect on a Federal program and provides audit objectives and suggested audit procedures. The 14 types of compliance requirements are:

- 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

Part 5 enumerates those programs that are considered to be clusters of programs as defined by OMB Circular A-133 (§__.105). A cluster of programs means Federal programs with different Catalog of Federal Domestic Assistance (CFDA) numbers that are defined as a cluster of programs because they are closely related programs and share compliance requirements. Part 5 identifies research and development (R&D) and Student Financial Aid (SFA) as clusters, as well as certain other clusters. Also, Part 5 identifies other clusters of programs that are not yet included in this Supplement.

For programs not included in this Supplement, the auditor must determine the applicable compliance requirements. While a Federal program may have many compliance requirements, normally there are only a few key compliance requirements that could have a direct and material effect on the program. Since the single audit process is not intended to cover every compliance requirement, this Supplement and the auditor's focus should be on the 14 types of compliance requirements enumerated in Part 3. The following are suggested procedures to assist the auditor in making this determination.

Although the focus of this Supplement is on compliance requirements that could have a direct and material effect on a major program, auditors also have responsibility under *Generally Accepted Government Auditing Standards* (GAGAS) for other requirements when specific information comes to the auditors' attention that provides evidence concerning the existence of possible noncompliance that could have a material indirect effect on a major program.

Steps for Identifying Compliance Requirements

Determining what compliance requirements to test involves several steps. The auditor should address the following questions:

1. What are the program objectives, program procedures, and compliance requirements for a specific program?
2. Which of the compliance requirements could have a direct and material effect on the program?
3. Which of the compliance requirements are susceptible to testing by the auditor?
4. Into which of the 14 types of compliance requirements does each compliance requirement fall?
5. For Special Tests and Provisions, what are the applicable audit objectives and audit procedures?

1. *What are the program objectives, program procedures, and compliance requirements for a specific program?*

The first step is to gain an understanding of how the program works (e.g., the program objectives and procedures) and determine what laws, regulations, and provisions of contract or grant agreements (compliance requirements) apply to the program. The auditor should consider the following steps:

- a. Discuss the program with the non-Federal entity and, if necessary, the Federal agency or, in the case of a subrecipient, the pass-through entity.
- b. Review the contract and grant agreements and referenced laws and regulations applicable to the program, including any amendments or closeout agreements. The documents or agreements may identify the name and telephone number of a Federal contact person or, if a subaward, the contact person for the pass-through entity whom the auditor may wish to contact for additional information.

Note: The auditor should be aware that a particular non-Federal entity or Federal award may be subject to provisions that are unique to that entity or award. For example, previous noncompliance by a non-Federal entity may result in additional requirements to which the non-Federal entity must adhere, in order to continue its participation in the Federal program. Such provisions would generally not be based on laws and regulations applicable to all awards under the Federal program. Reasonable procedures to identify such compliance requirements would be inquiry of non-Federal entity management and review of the contract and grant agreements pertaining to the program. Any such requirements identified which could have a direct and material effect on a major program should be included in the audit.

- c. Review the *Catalog of Federal Domestic Assistance* (CFDA). The CFDA provides summary information about each program and includes the name and telephone number of a Federal contact person. A searchable copy of the CFDA is available through the Internet at www.cfda.gov.
- d. If there is a program-specific audit guide or other audit guidance issued by the Federal agency's Office of Inspector General (OIG), the auditor may wish to consider this guidance in identifying the program objectives, program procedures, and compliance requirements. The availability of program audit guides can be determined by contacting the appropriate Regional OIG.
- e. Consider other audit guidance, including previously issued guidance, pertaining to the program that has continuing relevance.

2. *Which of the compliance requirements could have a direct and material effect on the program?*

Generally Accepted Government Auditing Standards require that the auditor plan the audit to provide reasonable assurance that the financial statements are free of material misstatement resulting from violations of laws and regulations that have a direct and material effect on the determination of financial statement amounts. OMB Circular A-133 requires the auditor to perform procedures to determine whether the non-Federal entity has complied with laws, regulations, and the provisions of contract or grant agreements that could have a direct and material effect on each major program. Therefore, the auditor must determine which compliance requirements could have a direct and material effect on each major program.

In assessing materiality, the auditor should consider that materiality is based on qualitative as well as quantitative aspects. Also, the auditor should consider whether to set materiality at lower levels in audits of Federal programs than private sector audits of financial statements due to the visibility and sensitivity of such programs. Examples of characteristics indicative of compliance requirements that could have a direct and material effect on a major program include:

- Noncompliance could likely result in questioned costs.
- The requirement affects a large part of the Federal program (e.g., a material amount of program dollars).
- Noncompliance could cause the Federal agency, or pass-through entity in the case of a subrecipient, to take action, such as seeking reimbursement of all or a part of the award and suspending the recipient's or subrecipient's participation in the program.

3. *Which of the compliance requirements are susceptible to testing by the auditor?*

The auditor is only expected to test compliance for those requirements which are susceptible to testing by the auditor (i.e., the requirements can be evaluated against objective criteria, and the auditor can reasonably be expected to have sufficient basis for recognizing noncompliance). Further, the auditor would not be expected to test for compliance with requirements that the Federal agency should have the ability to verify in the normal course of administering the program (e.g., if the requirement is that the non-Federal entity must file a report by a certain date, the Federal agency should know whether it received the report on time). Characteristics of compliance requirements that auditors are typically expected to test include those:

- Which are practical to test.
- With objective criteria available for the auditor to assess compliance.
- Where an audit objective can be written that supports an opinion on compliance.
- When testing adds value, for example:
 - It is likely that the auditor could document the noncompliance in a manner that: (1) permits the Federal or pass-through entity to take action, or (2)

- gives the Federal or pass-through entity an early warning to initiate a monitoring visit or other contact with the non-Federal entity.
- The Federal or pass-through entity does not otherwise have information that verifies compliance.

4. *Into which of the 14 types of compliance requirements does each compliance requirement fall?*

Note: In performing this step, the auditor may find it helpful to prepare a matrix similar to the matrix included in Part 2 for programs included in this Supplement.

The auditor shall use the 14 types of compliance requirements listed for identifying which requirements applicable to the program are subject to testing. Not all compliance requirements apply to all programs. Conversely, certain types almost always apply.

- A. **Activities Allowed or Unallowed** almost always applies to Federal programs. The auditor should look at the program requirements and Federal award documents for what constitutes allowable or unallowable activities.
- B. **Allowable Costs/Cost Principles** almost always applies since most Federal programs have charges for goods or services. However, if a program only involves benefits to eligible recipients, with no administrative costs, purchases of goods or services (including salaries and overhead), or allocated costs, then allowable costs may not apply.
- C. **Cash Management** almost always applies to Federal programs. An exception would be a Federal award that operates on a cost reimbursement basis only with no cash being advanced.
- D. **Davis-Bacon Act** only applies as required by the Act itself, the Department of Labor's (DOL) governmentwide implementation of the Davis-Bacon Act, or by Federal program legislation, for construction contracts in excess of \$2000 financed by Federal funds. The auditor should review award documents to determine whether the Davis-Bacon Act applies.
- E. **Eligibility** applies to most Federal programs which provide benefits to individuals, groups of individuals, or make subawards. For programs with eligibility requirements, the auditor should review the program laws, regulations, and provisions of contract or grant agreements to determine the specific eligibility requirements. Eligibility involves not only individuals but also possibly groups of individuals, geographical areas, or subrecipients. Additionally, the auditor should consider whether continuing, as well as initial, eligibility requirements apply. Furthermore, eligibility involves both who is eligible and the amount of benefits provided to the eligible.
- F. **Equipment and Real Property Management** requirements applies to Federal programs which purchase equipment or real property.

- G. **Matching, Level of Effort, Earmarking** is not universal, and, if applicable, would be specific to the Federal program and often the non-Federal entity. Therefore, the auditor will have to review the laws, regulations, contract or grant agreements applicable to the program to determine specific requirements for matching, level of effort, and/or earmarking.
- H. **Period of Availability of Federal Funds** almost always applies to Federal programs. The contract or grant agreement applicable to the program often indicates the period during which the funds are available for obligation under the program. The auditor should also look for program requirements regarding carry-over of unused funds to future funding periods, and whether pre-award costs are allowable, to what extent, and under what circumstances.
- I. **Procurement and Suspension and Debarment** applies any time the entity procures goods or services. Suspension and debarment applies to both procurements and subawards.
- J. **Program Income** applies to any program that generates program income (primarily related to the disposition of the income). Program regulations or the contract or grant agreements applicable to the program may specify additional criteria.
- K. **Real Property Acquisition and Relocation Assistance** only applies as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) for payments to persons displaced from their homes, businesses, or farms by federally-assisted programs. While this requirement only applies to a few programs, when it does apply, it is generally a significant aspect of the program. For example, the U.S. Department of Transportation (DOT) funds many programs to construct highways in which real property acquisition and relocation assistance is a significant part of the program activities. The U.S. Department of Housing and Urban Development has the most transactions subject to the URA and the DOT has the most Federal dollars affected.
- L. **Reporting** almost always applies to Federal programs. The standard financial reports are described in Part 3; however, the Federal agency or the pass-through entity may have developed its own forms for financial reporting. These forms may be in addition to or in lieu of the standard Federal financial reports and may include electronic submissions. The auditor should determine whether the standard reports are used, and if not, whether other forms are used to report the same or similar information. Information collections by Federal agencies must be approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 USC 3501-3520) and assigned an OMB control number. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number

For performance reporting and special reporting, if there is a program in this Supplement funded by the same Federal agency that requires the same

performance or special reporting required by the program for which the auditor is seeking to identify compliance requirements, and this Supplement requires testing of those data, then the auditor should use such guidance in identifying compliance requirements to test. Otherwise, the auditor is only required to test financial reporting.

- M. **Subrecipient Monitoring** applies when Federal awards are passed through to a subrecipient. If the entity is not a pass-through entity, this requirement does not apply.
- N. **Special Tests and Provisions** includes those compliance requirements that do not fit the description of the types of compliance requirements discussed above. These will generally be the most difficult type of compliance requirement to identify because, by definition, they are unique to each program. In addition to reviewing the program's contract and grant agreements and referenced laws and regulations, the auditor should also make inquiries of the non-Federal entity to help identify and understand Special Tests and Provisions.

For each of the types of compliance requirements listed above, except for Special Tests and Provisions, the auditor shall consider the compliance requirements and related audit objectives in Part 3. In making a determination not to test a compliance requirement, the auditor must conclude that the requirement either does not apply to the particular non-Federal entity or that noncompliance with the requirement could not have a material effect on a major program (e.g., the auditor would not be expected to test Procurement if the non-Federal entity charges only small amounts of purchases to a major program). The suggested audit procedures in Part 3 are provided to assist auditors in planning and performing tests of non-Federal entity compliance with the requirements of Federal programs. Auditor judgment will be necessary to determine whether the suggested audit procedures are sufficient to achieve the stated audit objective and whether additional or alternative audit procedures are needed.

Internal Control - Consistent with the requirements of OMB Circular A-133, Part 3 includes audit objectives and suggested audit procedures to test internal control. However, the auditor must determine the specific procedures to test internal control on a case by case basis considering factors such as the non-Federal entity's internal control, the compliance requirements, the audit objectives for compliance, the auditor's assessment of control risk, and the audit requirement to test internal control as prescribed in OMB Circular A-133.

- 5. *For Special Tests and Provisions, what are the applicable audit objectives and audit procedures?*

For each of the types of compliance requirements discussed above, Part 3 includes audit objectives and suggested audit procedures, except for Special Tests and Provisions. As noted above, Special Tests and Provisions are sufficiently unique to every program that including audit objectives and suggested audit procedures is not practicable. Therefore, the auditor will have to develop audit objectives and audit procedures for each identified

Special Test and Provision using the guidance described in Part 3 under Special Tests and Provisions.

Appendix I

Federal Programs Excluded from the A-102 Common Rule

Note: §__ references are to the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" (A-102 Common Rule).

Background

Certain grant programs (block grant programs enacted under the Omnibus Budget Reconciliation Act of 1981, one special program, open-ended entitlement programs, and other specified programs) are exempt from the provisions of the A-102 Common Rule. These programs are listed below. State administrative requirements for financial management and control apply to the block grant programs (including their subrecipients) and Federal agency regulations apply to the programs which are not block grants.

Block grant programs and the one special program are also exempt from the provisions of OMB cost principles circulars. State cost principles requirements apply to these programs (including their subrecipients). The open-ended entitlement programs and other specified programs are subject to the provisions of the OMB cost principles circulars.

The administrative requirements for the open-ended entitlement programs contained in Federal agency regulations may not be identical to those in the A-102 Common Rule. Rather than identify for testing each instance where the requirements differ, this Compliance Supplement only addresses differences that warrant special attention. These differences are in the area of procurement. With respect to all other administrative requirements, the auditor should be guided by the provisions of the A-102 Common Rule (see Part 3) or Circular A-110 and agency program requirements (see Part 4).

Differences pertaining to procurement

Subpart F of 45 CFR 95, ADP equipment and services, applies to all of these Department of Health and Human Services (HHS) programs. Subpart F requires prior Federal written approval for the acquisition of ADP equipment and services of \$5 million or more when the Federal Government funds at regular matching rates and prior written approval for all ADP acquisitions when the Federal Government funds at enhanced matching rates. In addition, the rules require prior Federal written approval for sole source contracts between \$1 million and \$5 million when the Federal Government funds at regular matching rates and for certain requests for proposals (RFPs), contracts, and amendments.

Programs Excluded from the Requirements of the A-102 Common Rule

Since many of the programs excluded from the A-102 Common Rule were reauthorized or amended, the following list provides the current CFDA number and name as listed in the 1996 CFDA. United States Department of Agriculture (USDA) entitlement grants are not listed since they have been included under USDA's adoption of the A-102 Common Rule. A notation is included with the program name to indicate when only part of the awards under a CFDA number are excluded from the A-102 Common Rule or to provide other clarifications.

§ __.4(a)(2) Block grant programs authorized by:

The Omnibus Budget Reconciliation Act of 1981 (§ __.4(a)(2))

93.569 Community Services Block Grant

93.991 Preventive Health and Health Services Block Grant

93.958 and Block Grants for Community Mental Health Services

93.959 Block Grants for Prevention and Treatment of Substance Abuse (both of these were formerly part of the ADAMHA block grant)

93.994 Maternal and Child Health Services Block Grant to the States

93.667 Social Services Block Grant

93.568 Low-Income Home Energy Assistance

14.228 Community Development Block Grants/State's Program (State-administered small cities program)

84.298 Innovative Education Program Strategies (Title VI) (formerly Chapter 2 of ECIA)

17.250 and Job Training Partnership Act (Title I and II)

17.246 Employment and Training Assistance--Dislocated Workers (Title III)

(For both of these programs (17.250 and 17.246), Section 164(a)(3) of the Job Training Reform Amendments of 1992, and the implementing regulations at 20 CFR section 627.420, prescribe minimum requirements for procurements made with Job Training Partnership Act (JTPA) Titles I, II, and III funds. These requirements largely parallel, and in some cases exceed, the procurement provisions of the A-102 Common Rule. Also, 20 CFR section 627.435(b) provides that the determination of whether a JTPA Title I, II, or III cost is direct or indirect shall be made in accordance with the OMB cost principles Circulars identified in 29 CFR part 97, the Department of Labor's adoption of the A-102 Common Rule at 29 CFR section 97.22(b).)

Special program

84.010 Title I Grants to Local Educational Agencies (formerly Chapter 1 of ECIA)

Open-ended entitlement programs

§ __.4(a)(3) Entitlement grants to carry out the following programs of the Social Security Act:

93.563 Child Support Enforcement (Title IV-D)

93.658 and Foster Care--Title IV-E

93.659 Adoption Assistance (Title IV-E)

93.778 Medical Assistance Program (Medicaid; Title XIX) (not including the State Medicaid Fraud Control program)

See Note 1 below for applicable Federal agency regulations.

§ __.4(a)(7) A grant for an experimental, pilot, or demonstration project that is also supported by a grant listed in paragraph (a)(3) of this section.

See Note 1 below for applicable Federal agency regulations.

Other specified programs

§ __.4(a)(8) Grant funds awarded under subsection 412(e) of the Immigration and Nationality Act (8 USC 1522(e)) and subsection 501(a) of the Refugee Education Assistance Act of 1980 (42 USC 1535) (Pub. L. No. 96-422, 94 Stat. 1809), for cash assistance, medical assistance, and supplemental security income benefits to refugees and entrants and the administrative costs of providing the assistance and benefits.

93.566 Refugee and Entrant Assistance--State Administered Programs

See Note 1 below for applicable Federal agency regulations.

§ __.4(a)(9) Grants to local education agencies under 20 USC 236 through 241-1(a), and 242 through 244 (portions of the Impact Aid program), except for 20 USC 238(d)(2)(c) and 240(f) (Entitlement Increase for Handicapped Children).

84.041 Impact Aid (excluding payments for children with disabilities and payments for construction)

§ __.4(a)(10) Payments under the Veterans Administration's State Home Per Diem Program.

64.014 Veterans State Domiciliary Care

64.015 Veterans State Nursing Home Care

64.016 Veterans State Hospital Care

Note 1: Even though the programs listed under paragraphs § __.4(a)(3), § __.4(a)(7), and § __.4(a)(8) are exempt from the A-102 Common Rule, they are currently covered by HHS's interim final implementation of OMB Circular A-110 which HHS has titled as "Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Non-Profit Organizations, and Commercial Organizations; and Certain Grants and Agreements with States, Local Governments and Indian Tribal Governments" (45 CFR part 74) which has requirements **less** restrictive (for institutions of higher education) but similar to the A-102 Common Rule and "General Administration-Grant Programs (Public Assistance and Medical Assistance)" (45 CFR part 95).

Appendix II
Federal Agency Codification of Certain Governmentwide Grants Requirements

Agency (departments then agencies ¹)	A-102 Common Rule (State & local governments)	OMB Circular A-110 (universities & non-profit organizations) ²	Nonprocurement Suspension & Debarment ³
Agriculture	7 CFR 3016	7 CFR 3019	7 CFR 3017
Commerce	15 CFR 24	15 CFR 14	15 CFR 26
Defense	32 CFR 33	32 CFR 32	32 CFR 25
Education	34 CFR 80	34 CFR 74	34 CFR 85
Energy	10 CFR 600	10 CFR 600	10 CFR 1036
Health & Human Services	45 CFR 92	45 CFR 74	45 CFR 76
Housing & Urban Development	24 CFR 85	24 CFR 84	24 CFR 24
Interior	43 CFR 12	43 CFR 12	43 CFR 12
Justice	28 CFR 66	28 CFR 70	28 CFR 67
Labor	29 CFR 97	29 CFR 95	29 CFR 98
State	22 CFR 135	22 CFR 145	22 CFR 137
Transportation	49 CFR 18	49 CFR 19	49 CFR 29
Treasury			31 CFR 19
Veterans Affairs	38 CFR 43		38 CFR 44
ADF			22 CFR 1508
AID		22 CFR 226	22 CFR 208
BBG		22 CFR 518	22 CFR 513
CNCS	45 CFR 2541	45 CFR 2543	45 CFR 2542
EPA	40 CFR 31	40 CFR 30	40 CFR 32
FEMA	44 CFR 13		44 CFR 17
FMCS	29 CFR 1470		29 CFR 1471
GSA	41 CFR 105-71	41 CFR 105-72	41 CFR 105-68
IMS	45 CFR 1183		45 CFR 1185

Agency (departments then agencies ¹)	A-102 Common Rule (State & local governments)	OMB Circular A-110 (universities & non-profit organizations) ²	Nonprocurement Suspension & Debarment ³
IAF			22 CFR 1006
NASA	14 CFR 1273	14 CFR 1260	14 CFR 1265
NARA	36 CFR 1207	36 CFR 1210	36 CFR 1209
NEA	45 CFR 1157		45 CFR 1154
NEH	45 CFR 1174		45 CFR 1169
NSF	45 CFR 602		45 CFR 620
ONDCP	21 CFR 1403		21 CFR 1404
OPM			5 CFR 970
Peace Corps			22 CFR 310
SBA	13 CFR 143		13 CFR 145

NOTES:

- Abbreviations used for the following independent agencies: African Development Foundation (ADF), Agency for International Development (AID), Broadcasting Board of Governors (BBG), Corporation for National & Community Service (CNCS), Environmental Protection Agency (EPA), Federal Emergency Management Agency (FEMA), Federal Mediation & Conciliation Service (FMCS), General Services Administration (GSA), Institute of Museum Services (IMS), Inter-American Foundation (IAF), National Aeronautics & Space Administration (NASA), National Archives & Records Administration (NARA), National Endowment for the Arts (NEA), National Endowment for the Humanities (NEH), National Science Foundation (NSF), Office of National Drug Control Policy (ONDCP), Office of Personnel Management (OPM), and Small Business Administration (SBA).
- Additional agencies are expected to codify OMB Circular A-110 (58 FR 62992); in the meantime, the Circular's requirements apply to them and their awards.
- Executive Order 12549 provided that agencies, including those which have not yet codified the common rule, are covered by OMB's governmentwide guidelines which are identical to the common rule (see OMB's memorandum to the agencies at 60 FR 33036 and OMB's notice at 53 FR 34474).

A copy of this table is also located on OMB's Home Page (www.whitehouse.gov/OMB/grants/chart.html)

Appendix III Federal Agency Contacts for A-133 Audits

This appendix lists Federal agency contacts for A-133 information. A separate table is provided for each Federal agency. The left side of the table lists the addresses, phone numbers, and, where available, e-mail and web page addresses, for each contact. The right side lists the geographical area each Federal contact is responsible for overseeing.

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United States Department of Agriculture	
<p>Regional Inspector General U.S. Department of Agriculture 5601 Sunnyside Avenue Stop 5300 Beltsville, MD 20705-5300 Phone:Voice (301) 504-2100 FAX (301) 504-2437</p>	<p>For audits in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Puerto Rico, and the Virgin Islands</p>
<p>Regional Inspector General U.S. Department of Agriculture 401 W. Peachtree St. NW, Suite 2328 Atlanta, GA 30308 Phone:Voice (404) 730-3210 FAX (404) 730-3221</p>	<p>For audits in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee</p>
<p>Regional Inspector General U.S. Department of Agriculture 111 N. Canal Street, Suite 1130 Chicago, IL 60606-7295 Phone:Voice (312) 353-1352 FAX (312) 353-3017</p>	<p>For audits in Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin</p>
<p>Regional Inspector General U.S. Department of Agriculture 101 South Main, Room 324 Temple, TX 76501 Phone:Voice (254) 743-6565 FAX (254) 298-1373</p>	<p>For audits in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas</p>
<p>Regional Inspector General U.S. Department of Agriculture 5799 Broadmoor, Suite 600 Mission, KS 66202 Phone:Voice (913) 261-7540 FAX (913) 261-7675</p>	<p>For audits in Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming</p>
<p>Regional Inspector General U.S. Department of Agriculture 75 Hawthorne Street, Suite 200 San Francisco, CA 94105 Phone:Voice (415) 744-2851 FAX (415) 744-2871</p>	<p>For audits in Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Washington, Trust Territories of the Pacific, and Territory of Guam</p>

United States Department of Agriculture	
National Single Auditor Coordinator U.S. Department of Agriculture Office of Inspector General Jamie L. Whitten Building - Room 450E 1400 Independence Ave., SW Washington, DC 20250 Phone:Voice (202) 720-2808 FAX (202) 690-4110	NATIONAL OFFICE CONTACT

Department of Commerce	
Regional Inspector General U. S. Department of Commerce 401 West Peachtree Street, NW Suite 2742 Atlanta, GA 30308 Phone:Voice (404) 730-2780 FAX (404) 730-2788	All audits

Department of Defense	
Office of the Deputy Assistant Inspector General for Audit Policy and Oversight Office of Inspector General U.S. Department of Defense 400 Army Navy Drive, Room 737 Arlington, VA 22202-2884 Phone:Voice (703) 604-8758 FAX (703) 604-9808 E-Mail:aponet@dodig.osd.mil	All audits

Department of Education	
Director, Non-Federal Audits Office of Inspector General U.S. Department of Education Wanamaker Building 100 Penn Square East., Suite 502 Philadelphia, PA 19107 Phone:Voice (215) 656-6900 FAX (215) 656-6397	NATIONAL OFFICE CONTACT and audits in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Puerto Rico, and the Virgin Islands

Department of Education	
Non-Federal Audit Team Office of Inspector General U.S. Department of Education 1999 Bryan St., Suite 2630 Dallas, TX 75201-6817 Phone: Voice (214) 880-3031 FAX (214) 880-2492	For audits in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.
Non-Federal Audit Team Office of Inspector General U.S. Department of Education 10220 N. Executive Hills Blvd., 2nd Floor Kansas City, MO 64153 Phone: Voice (816) 880-4024 FAX (816) 891-0815	For audits in Alaska, Arizona, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming, and the Pacific Islands.

Department of Energy	
U.S. Department of Energy Office of Inspector General ATTN: Single Audit Contact 1000 Independence Ave. SW IG-33, Rm 5A-193 Washington, DC 20585 Phone: Voice (202) 586-1947 FAX (202) 586-0099 Web Page: www.ig.doe.gov	All audits

Department of Health and Human Services	
National Audit Managers - Non-Federal Audits HHS OIG National External Audit Resources Lucas Place 323 West 8th Street, Room 514 Kansas City, MO 64105 Phone: Voice (816) 374-6714 (800) 732-0679 FAX (816) 374-6727 Web Page: www.os.dhhs.gov	All audits

Department of Housing and Urban Development	
US Department of HUD Office of Inspector General Mid-Atlantic Audit District Single Audit Coordinator 100 Penn Square East Wanamaker Bldg., Suite 1005 Philadelphia, PA 19107 Phone: Voice (215) 656-3401 Ext. 3491 FAX (215) 656-3409 Web Page: www.hud.gov/oig/oigindex.html	All audits
Department of the Interior	
U.S. Department of Interior Office of Inspector General 1849 C Street, NW, ms 5341-MIB Washington, DC 20240 Phone: Voice (202) 208-5520 FAX (202) 208-2803	All audits
Department of Justice	
U. S. Department of Justice Washington Regional Audit Office 1425 New York Ave, NW Suite 6001 Washington, DC 20005 (Mailing Address: P.O. Box 34190 Washington, DC 20043-4190) Phone: Voice (202) 616-4688 FAX (202) 616-4581	District of Columbia, Maryland, Virginia, and West Virginia
U.S. Department of Justice Philadelphia Regional Audit Office 701 Market Street, Suite 201 Philadelphia, PA 19106 Phone: Voice (215) 580-2111 FAX (215) 597-1348	For audits in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont

Department of Justice	
U.S. Department of Justice Atlanta Regional Audit Office 75 Spring Street Suite 1130 Atlanta, GA 30303 Phone:Voice (404) 331-5928 FAX (404) 331-5046	For audits in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands
U.S. Department of Justice Chicago Regional Audit Office CitiCorp Center, 500 West Madison Suite 3510 Chicago, IL 60661 Phone:Voice (312) 353-1203 FAX (312) 886-0513	For audits in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin
U.S. Department of Justice Dallas Regional Audit Office 207 South Houston Street Box 4 (Room 575) Dallas, TX 75202 Phone:Voice (214) 655-5000 FAX (214) 655-5025	For audits in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas,
U.S. Department of Justice Denver Regional Audit Office 1120 Lincoln Street, Suite 1603 Denver, CO 80203 Phone: Voice (303) 864-2000 FAX (303) 864-2004	For audits in Alaska, Colorado, Idaho, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming
U.S. Department of Justice San Francisco Regional Audit Office 1200 Bayhill Drive, Suite 201 San Bruno, CA 94066 Phone:Voice (650) 876-9220 FAX (650) 876-0902	For audits in American Samoa, Arizona, California, Guam, Hawaii, Nevada, Trust Territories of the Pacific Islands, and the Commonwealth of Northern Mariana Islands
U.S. Department of Justice Assistant Inspector General for Audit 1425 New York Avenue, NW Suite 5001 Washington, DC 20005 (Mailing Address: P.O. Box 34190 Washington, DC 20043-4190) Phone:Voice (202) 616-4633 FAX (202) 616-1697	NATIONAL OFFICE CONTACT

Department of Labor

National Single Audit Coordinator
Office of Performance and Financial
Accountability Audits
U.S. Department of Labor
200 Constitution Ave. NW, Room N-4633
Washington, DC 20210
Phone: Voice (202) 693-5162
FAX (202) 693-5169
E-mail: lsandoval@oig.dol.gov
Web Page:
[http://www.oig.dol.gov/public/programs/oa/
main.htm](http://www.oig.dol.gov/public/programs/oa/main.htm)

All audits

Department of State

U.S. Department of State
Office of Inspector General
OIG/AUD/CG
1700 North Moore Street
Arlington, VA 22209
Phone: Voice (703) 284-2600
FAX (703) 284-2622

All audits

Department of Transportation

U.S. Department of Transportation
Office of Inspector General JA-20
400 7th Street, SW
Room 9228
Washington, DC 20590
Phone: Voice (202) 366-1496
FAX (202) 366-3530

All audits

Department of the Treasury

Department of the Treasury
Office of Inspector General
Director of Financial Related Audits
740 15th Street NW, Suite 600
Washington, DC 20220
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Department of Veterans Affairs	
<p>Director Operational Support Division (52M) Department of Veterans Affairs 810 Vermont Ave. NW Washington, DC 20420 Phone:Voice (202) 565-7610 FAX (202) 565-7771</p>	<p>All audits</p>

Agency for International Development	
<p>USAID Attn: OIG/A/FA Room 8.10-10 1300 Pennsylvania Avenue, NW Washington, DC 20523-7802 Phone:Voice (202) 712-4902 FAX (202) 216-3598 E-Mail: faudit@usaid.gov Web Page: www.info.usaid.gov</p>	<p>For audits of all U. S. based not-for-profit organizations</p>

Appalachian Regional Commission	
<p>Appalachian Regional Commission Office of Inspector General Appalachian Regional Commission 1666 Connecticut Ave. NW, Suite 215 Washington, DC 20235 Phone:Voice (202) 884-7675 FAX (202) 884-7696 E-Mail: hsparks@arc.gov</p>	<p>All audits</p>

Corporation for National and Community Service	
<p>Office of the Inspector General Corporation for National and Community Service - Mail Stop 9800 1201 New York Avenue, NW Washington, DC 20525 Phone:Voice (202) 606-5000 ext. 124 FAX (202) 565-2850</p>	<p>All audits</p>

Environmental Protection Agency

National Single Audit Coordinator
 Office of Inspector General
 Mid-Atlantic Audit Division
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 3AI00
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All audits

Federal Emergency Management Agency

Office of Inspector General
 Attn: Single Audit Coordinator
 Federal Emergency Management Agency
 500 C Street SW - Suite 510
 Washington, DC 20472
 Phone:Voice (202) 646-3221
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General Services Administration

Regional Inspector General for Auditing
 General Services Administration
 Washington Field Audit Office (JA-W)
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 Washington, DC 20407
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National Aeronautics and Space Administration

NASA Office of Inspector General
 NASA Headquarters, Code W
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All audits

National Archives and Records Administration

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 National Archives at College Park
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National Endowment for the Arts

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 National Endowment for the Arts
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National Endowment for the Humanities

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National Science Foundation

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All audits

Tennessee Valley Authority

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All audits

U.S. Information Agency

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 Office of Inspector General
 OIG/AUD/CG
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 Arlington, VA 22209
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 FAX (703) 284-2622

All audits

Appendix IV
Internal Reference Tables

Programs with sub-section "IV. Other Information" descriptions in Parts 4 and 5:

CFDA Number	Title	Type A/B Program	Schedule Federal Awards	Other
10.760	Water and Waste Disposal Systems for Rural Communities	X	X	X
10.766	Community Facilities Loans and Grants	X	X	X
11.300 11.307	Public Works and Economic Development Cluster	X	X	
14.157	Supportive Housing for the Elderly	X	X	
14.181	Supportive Housing for Persons with Disabilities (Section 811)	X	X	
14.872	Public Housing Capital Fund (CFP)			X
17.225	Unemployment Insurance	X	X	
17.247	Migrant and Seasonal Farmworkers			X
17.251	Native American Employment and Training Programs			X
17.258 17.259 17.260	WIA Cluster			X
17.263	Youth Opportunity Grants			X
20.106	Airport Improvement Program			X
21.020	Community Development Financial Institutions Program	X	X	
66.458	Capitalization Grants for State Revolving Funds			X
66.468	Capitalization Grants for Drinking Water State Revolving Fund			X
83.548	Hazard Mitigation Grant (HGMP)	X	X	
84.063	Federal Pell Grant Program			X
93.268	Immunization Grants	X	X	

CFDA Number	Title	Type A/B Program	Schedule Federal Awards	Other
93.558	Temporary Assistance for Needy Families	X	X	X
93.568	Low-Income Home Energy Assistance	X	X	
93.569	Community Services Block Grant	X	X	
93.575	Child Care and Development Block Grant	X	X	
93.667	Social Services Block Grant	X	X	
93.914	HIV Emergency Relief Project Grants	X	X	X
93.959	Block Grants for Prevention and Treatment of Substance Abuse	X	X	
93.991	Preventive Health and Health Services Block Grant	X	X	
93.994	Maternal and Child Health Block Grant to the States	X	X	
96.001 96.006	Disability Insurance/SSI Cluster		X	

The "IV. Other Information" for the following ED programs is located in 84.000, the ED Cross-Cutting Section:

CFDA Number	Title	Type A/B Program	Schedule Federal Awards	Other
84.010	Title I Grants to Local Educational Agencies	X	X	
84.011	Migrant Education - Basic State Grant Program	X	X	
84.027 84.173	Special Education Cluster	X	X	
84.048	Vocational Education - Basic Grants to States	X	X	
84.186	Safe and Drug-Free Schools and Communities--State Grants	X	X	
84.276	Goals 2000--State and Local Education Systemic Improvement Grants	X	X	
84.281	Eisenhower Professional Development State Grants	X	X	
84.282	Charter Schools	X	X	
84.287	Twenty-First Century Community Learning Centers	X	X	
84.288 84.290 84.291	Bilingual Education Cluster	X	X	
84.298	Innovative Education Program Strategies	X	X	
84.318	Technology Literacy Challenge Fund Grants	X	X	
84.338	Reading Excellence	X	X	
84.340	Class Size Reduction	X	X	

**Program currently designated as "Higher Risk" by OMB pursuant to Circular A-133,
§___.525(c)(2):**

CFDA

Number

Title

93.778

Medicaid Cluster

Appendix V

List of Changes for the 2002 Compliance Supplement

This Appendix provides a list of changes from the OMB Circular A-133 Compliance Supplement issued in March 2001 to this 2002 Supplement.

Part 1 - Background, Purpose, and Applicability

- Updated for the effective date of this Supplement.
- Updated "Overview of This Supplement" to show Appendix VI as reserved since advisories related to the Year 2000 issue have been deleted from this Supplement.
- Updated "Technical Information Code of Federal Regulations" to provide reference to a beta test site for an updated electronic CFR.
- Updated "How to Obtain Additional Guidance."

Part 2 - Matrix of Compliance Requirements

- Updated for new programs and changes to existing programs.

Part 3 - Compliance Requirements

- B. Allowable Costs Cost Principles - Added "Availability of Other Information" and clarified "Suggested Audit Procedures - Compliance" for "Internal service, central service, pension, or similar activities or funds."
- D. Davis-Bacon Act - Corrected "Audit Objective" and "Suggested Audit Procedures" to remove testing of contractor and subcontractor construction payrolls.
- N. Special Tests and Provisions - Deleted "Year 2000 Compliance Considerations."

Part 4 - Agency Program Requirements

- Added the following programs:

		<u>Page No.</u>
14	Department of Housing and Urban Development (HUD) 14.872 - Public Housing Capital Fund (CFP)	4-14.872

17 Department of Labor (DOL)*Employment Services Cluster:*

17.258 - WIA Adult Program 4-17.258

17.259 - WIA Youth Activities 4-17.258

17.260 - WIA Dislocated Workers 4-17.258

17.263 - Youth Opportunity Grants 4-17.263

83 Federal Emergency Management Agency (FEMA)

83.548 - Hazard Mitigation Grant Program 4-83.548

93 Department of Health and Human Services (HHS)

93.217 - Family Planning - Services 4-93.217

93.566 - Refugee and Entrant Assistance - State
Administered Programs 4-93.566

- CFDA 10.551 and 10.561 - Clarified "II. Program Procedures."
- CFDA 10.553, 10.555, 10.556, and 10.559 - Clarified "II. Program Procedures," "I. Procurement and Suspension and Debarment," "M. Subrecipient Monitoring," and "N.2 Accountability for Commodities." Added Reimbursement of Sponsor Operating Costs (SFSPC) to "A. Activities Allowed or Unallowed." Moved specific requirements from "II. Program Procedures" to "E. Eligibility" and clarified these requirements. Added subrecipient reporting to "L.1 Financial Reporting" and "L.3 Special Reporting." Corrected key line numbers under "L.3 Special Reporting."
- CFDA 10.557 - Clarified "II. Program Procedures," "A. Activities Allowed or Unallowed," "B. Allowable Costs/Cost Principles," "C. Cash Management," "E. Eligibility," "H. Period of Availability of Federal Funds," and "J. Program Income." Updated "L.1 Financial Reporting." Moved "N.2 Management Evaluations" to "M. Subrecipient Monitoring." Updated "N.1 Food Instrument Disposition."
- CFDA 10.558 - Moved specific requirements from "II. Program Procedures" to "E. Eligibility" and clarified these requirements. Updated "E.3 Eligibility for Subrecipients." Added to "L.1 Financial Reporting" and "L.3 Special Reporting" reporting from the subrecipients to the States. Clarified "II. Program Procedures," "A. Activities Allowed or Unallowed," "I. Procurement and Suspension and Debarment," and "N.2 Accountability for Commodities."
- CFDA 10.566 - Updated "II. Program Procedures." Added "N.1 EBT Reconciliation."
- CFDA 10.570 - Updated "I. Program Objectives" and "II. Program Procedures." Added to "L.1 Financial Reporting" reporting from the subrecipients to the States. Deleted "L.3 Special Reporting."

- CFDA 10.665 - Clarified "II. Program Procedures" and "A. Activities Allowed." Updated program for note to Pub. L. No. 106-393, 114 Stat. 1611, October 30, 2000 and added "G.3 Earmarking." Removed the Spotted Owl Payments which were repealed by section 404 of Pub. L. No. 106-393.
- CFDA 10.760 - Clarified "A. Activities Allowed or Unallowed." Added to "IV. Other Information" guidance on interim financing.
- CFDA 12.401 - Clarified "II. Program Procedures" and "D. Davis-Bacon Act." Added Availability of Other Information to "II. Program Procedures." Added guidance on allocation of employee compensation costs to "B. Allowable Costs/Cost Principles."
- CFDA 14.182 - Updated "L.1 Financial Reporting."
- CFDA 14.235 - Updated "G.1 Matching" and "L.1 Financial Reporting."
- CFDA 14.850 - Updated "II. Program Procedures" and "L. Reporting." Clarified "E. Eligibility for Individuals."
- CFDA 14.852 - CFDA was deleted and combined with CFDA 14.859 into new CFDA 14.872.
- CFDA 14.854 - Updated "II. Program Procedures." Added to "A. Activities Allowed or Unallowed" reference to Notice of Funding Availability.
- CFDA 14.859 - CFDA was deleted and combined with CFDA 14.852 into new CFDA 14.872.
- CFDA 14.862 - Updated "L.1 Financial Reporting."
- CFDA 14.871 - Clarified "E. Eligibility for Individuals." Updated "L.3 Special Reporting." Deleted "IV. Other Information."
- Bureau of Indian Affairs Cross-Cutting Section - Updated citation for Department of the Interior's Appropriations Act.
- CFDA 15.042 - Updated "L.1 Financial Reporting."
- CFDA 16.579 - Updated "II. Program Procedures" for contact information. Updated "A. Activities Allowed or Unallowed" for Pub. L. No. 106-561, 114 Stat. 2787, December 21, 2000.
- CFDA 16.710 - Clarified "I. Program Objectives," "II. Program Procedures," "A. Activities Allowed or Unallowed," "B. Allowable Costs/Cost Principles," and "C.1 Matching." Deleted special provisions in "H. Period of Availability of Funds."

- CFDA 17.225 - Updated program for Pub. L. No 106-554 which enacted H.R. 5662 to add Indian tribes. Updated "E.1 Eligibility for Individuals" to add denied claims and interstate paid claims. Updated "L.1 Financial Reporting." Clarified suggested audit procedures in "N.2 Match with IRS 940 FUTA Tax Form."
- CFDA 17.245 - Updated "L.2 Performance Reporting" for key line items.
- CFDA 17.246 and 17.250 - CFDA's were deleted.
- CFDA 17.247 - Complete rewrite of program under Workforce Investment Act (WIA) requirements.
- CFDA 17.251 - Complete rewrite of program under WIA requirements.
- CFDA 17.253 - Updated "II. Program Procedures" Availability of Other Information. Clarified "E.1 Eligibility for Individuals." Deleted "IV. Other Information" as it affected periods prior to July 1, 2001.
- CFDA 17.255 - CFDA was deleted and programs represented by the CFDA are now included in CFDA's 17.247, 17.251, 17.258, 17.259, 17.260, and 17.263.
- CFDA 20.106 - Added Source of Governing Requirements and Availability of Other Information to "II. Program Procedures." Clarified "A. Activities Allowed or Unallowed."
- CFDA 20.205 and 23.003 - Clarified "F. Equipment and Real Property Management." Corrected legal citation in "N.6 Project Approvals."
- CFDA 20.500 and 20.507 - Added Source of Governing Requirements and Availability of Other Information to "II. Program Procedures." Clarified "I. Procurement and Suspension and Debarment," "N.2 Charter Service," and "N.3 School Bus Operation."
- CFDA 21.020 - Added Availability of Other Information to "II. Program Procedures."
- CFDA 45.129 - Updated "II. Program Procedures." Clarified "G.1 Matching."
- CFDA 66.458 - Updated "II. Program Procedures," "A. Activities Allowed or Unallowed," "C. Cash Management," and "N.3 Fund Establishment, Loan Repayments, and Fund Earnings." Clarified "H. Period of Availability of Funds" and "N.4 CWSRF as Security for Bonds."
- CFDA 66.468 - Added in "A. Activities Allowed or Unallowed" clarification of small water systems. Updated "C. Cash Management" for payment system change.

- CFDA 81.042 - Update "II. Program Procedures" for revised Internet site.
- CFDA 83.543 - Added Source of Governing Requirements and Availability of Other Information to "II. Program Procedures." Updated "E.1 Eligibility for Individuals" for statutorily determined maximum disaster relief amounts.
- CFDA 83.544 - Added Source of Governing Requirements and Availability of Other Information to "II. Program Procedures." Clarified "II. Program Procedures," "A. Activities Allowed or Unallowed," "B. Allowable Costs/Cost Principles," and "G.1 Matching." Added "E.3 Eligibility for Subrecipients" and "G.3 Earmarking." Added example in "G.1 Matching" which reflects revisions to 44 CFR section 206.203(d)(2) published in the May 4, 2001, *Federal Register* (66 FR 22443).
- Department of Education Cross-Cutting Section - Clarified "II. Program Procedures," "H. Period of Availability of Federal Funds," "N.1 Participation of Private School Children, and "N.2 Schoolwide Programs." Added "B.2 Documentation of Employee Time and Effort."
- CFDA 84.010 - Added Source of Governing Requirements to "II. Program Procedures."
- CFDA 84.011 - Added Source of Governing Requirements to "II. Program Procedures."
- CFDA 84.027 and 84.173 - Updated legal citations in "A. Activities Allowed or Unallowed" and "G. Matching, Level of Effort, Earmarking."
- CFDA 84.032 - Updated "II. Program Procedures," "N.3 Conditions for Reinsurance Coverage," "N.5 Default Aversion Assistance," "N.8 Federal Share of Borrower Payments," "N.9 Assignment of Defaulted Loans to ED," and "N.10 Federal Fund and Agency Operating Fund." Updated "L.1 Special Reporting" and other references for revised reports.
- CFDA 84.041 - Clarified "II. Program Procedures" for Section 8002 payments and added Source of Governing Requirements and Availability of Other Information. Clarified "G.2 Level of Effort" and "L.3 Special Reporting."
- CFDA 84.042, 84.044, 84.047, 84.066, and 84.217 - Clarified "A. Activities Allowed or Unallowed." Moved requirements related to Upward Bound and McNair stipends from "A. Activities Allowed or Unallowed" to "E.1 Eligibility for Individuals." Updated "E.1 Eligibility for Individuals" for new Student Support Services requirements related to grant aid to students in accordance with the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554. Added "G.1 Matching" and "G.3 Earmarking" for new requirements related to grant aid to students. Updated "L.1 Financial Reporting" to show SF-269 as not applicable. Under "L.2 Performance Reporting" added reports for Upward Bound and added

key line items to the Talent Search and Education Opportunity Centers report and McNair report.

- CFDA 84.048 - Clarified "II. Program Procedures," "E.3 Eligibility for Subrecipients," and "L.2 Performance Reporting."
- CFDA 84.126 - Added Source of Governing Requirements to "II. Program Procedures." Updated "II. Program Procedures" and "A. Activities Allowed or Unallowed" for relationship to Workforce Investment Act. Corrected legal citation in "A.1 Services To Individuals." Deleted "N.1 Individualized Plan for Employment" and "N.2 Comparable Services and Benefits."
- CFDA 84.186 - Added Source of Governing Requirements and Availability of Other Information to "II. Program Procedures." Added "A.4 Rural Education Achievement Program (REAP) (LEAs)."
- CFDA 84.278 - Added CFDA number. Updated "I. Program Procedures." Updated "II Program Procedures" to remove references to Department of Education CFDA suffixes which are not part of the CFDA.
- CFDA 84.281 - Under "II. Program Procedures" added Source of Governing Requirements. Updated "A. Activities Allowed or Unallowed," "E.3 Eligibility for Subrecipients," and "G.3 Earmarking" for changes in Title III of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554. Added "A.4 Rural Education Achievement Program (REAP) (LEAs)."
- CFDA 84.282 - Updated Source of Governing Requirements under "II. Program Procedures."
- CFDA 84.298 - Under "II. Program Procedures" added Source of Governing Requirements. Added "A.3 Rural Education Achievement Program (REAP) (LEAs)."
- CFDA 84.338 - Updated "II. Program Procedures" for Source of Governing Requirements.
- CFDA 84.340 - Updated Source of Governing Requirements under "II. Program Procedures." Updated "A. Activities Allowed or Unallowed," "G.3 Earmarking," and "N.1 Participation of Private Schools" for changes in Title III of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554. Added "A.3 Rural Education Achievement Program (REAP) (LEAs)."
- CFDA 93.210 - Clarified "II. Program Procedures" and "A. Activities Allowed or Unallowed."
- CFDA 93.558 - Under "II. Program Procedures" added contact information to Sources of Additional Information. Updated "A.1.b Activities Allowed or

Unallowed" to remove change in transfer amount beginning with Federal fiscal year 2002 per Department of Health and Human Services Appropriations Act, 2002, Pub. L. No. 107-116.

- CFDA 93.658 - Updated "E.1 Eligibility for Individuals" for regulatory changes.
- CFDA 93.767 - Clarified "II. Program Procedures," "A. Activities Allowed or Unallowed," and "G. Matching, Level of Effort, Earmarking." Updated "H. Period of Availability of Federal Funds."
- CFDA 93.775, 93.777, and 93.778 - Under "II. Program Procedures" added Source of Governing Requirements and Availability of Other Information. Clarified "II. Program Procedures."
- CFDA 93.914 - Updated "A. Activities Allowed or Unallowed," "E. Eligibility," "G.3 Earmarking," and "H. Period of Availability of Funds" for statutory changes and references. Updated "IV. Other Information."
- CFDA 93.917 - Clarified "II. Program Procedures." Updated "A. Activities Allowed or Unallowed," "E.3 Eligibility for Subrecipients," "G. Matching, Level of Effort, Earmarking," and "H. Period of Availability of Funds" for statutory changes and references.
- CFDA 93.918 - Updated "G.3 Earmarking" for statutory change to maximum administrative expenses.
- CFDA 93.958 - Clarified "II. Program Procedures." Updated "G.2.1 Level of Effort" for changes in Section 3204(c) of Pub. L. No. 106-310 (Children's Health Act of 2000), 114 Stat. 1193, October 17, 2000. Updated "H. Period of Availability of Federal Funds" for changes in section 3403(b) of Pub. L. No. 106-310, 114 Stat. 1220. Updated "L.1 Financial Reporting" to show SF-269A and SF-272 as applicable (October 15, 1999, *Federal Register* (64 FR 55843)). Added regulatory citation in "N.1 Independent Peer Reviews."
- CFDA 93.959 - Updated "II. Program Procedures" and "G. Matching, Level of Effort, Earmarking" for changes in Section 3203(c) of Pub. L. No. 106-310 (Children's Health Act of 2000), 114 Stat. 1210, October 17, 2000. Updated "H. Period of Availability of Federal Funds" for changes in section 3403(b) of Pub. L. No. 106-310, 114 Stat. 1220. Updated "L.1 Financial Reporting" to show SF-269A and SF-272 as applicable (October 15, 1999, *Federal Register* (64 FR 55843)).
- CFDA 93.991 - Clarified "II. Program Procedures." Updated "G.3 Earmarking."
- CFDA 94.006 - Updated "E.1 Eligibility for Individuals" for minimum/maximum living allowances.

Part 5 - Clusters of Programs

- Student Financial Aid Cluster - Clarified "II. Program Procedures," "C. Cash Management," "E. Eligibility," "G.3 Earmarking," and "L. Reporting." Updated "N.3 Disbursements To Or On Behalf of Students." Deleted portion of "N.4 Refunds/Return of Title IV Funds" related to refunds and clarified portion related to Return of Title IV Funds. Updated "N.5 Student Status Changes (HEAL, FFEL, and William D. Ford Direct Loan)" and "N.8 Borrower Data Transmission and Reconciliation (FDL)." Added "N. Institutional Eligibility." Updated Appendix A, "Student Eligibility Compliance Requirements."
- Updated list of other clusters for programs included in this Supplement.

Part 6 - Internal Control

- Updated "D. Davis Bacon Act" consistent with the changes in Part 3 to remove testing of contractor and subcontractor construction payrolls.

Part 7 - Guidance for Auditing Programs Not Included in This Compliance Supplement

- No changes made.

Appendix I - Federal Programs Excluded From the A-102 Common Rule

- No changes made.

Appendix II - Federal Agency Codification of Certain Governmentwide Grant Requirements

- Updated for Federal agency changes.

Appendix III - Federal Agency Contacts for A-133 Audits

- Updated Federal agency contacts.

Appendix IV - Internal Reference Tables

- Updated tables for changes in this Supplement.

Appendix V - List of Changes for the 2001 Compliance Supplement

- Updated this appendix to provide a list of changes from the OMB Circular A-133 Compliance Supplement issued in March 2001 to this 2002 Supplement.

Appendix VI - Other OMB Circular A-133 Advisories

- Deleted *Advisory to Federal Grantees on Responsibility to Address the Year 2000 Issue and Impact of Y2K on Audits of Federal Awards Under OMB Circular A-133*. This appendix is reserved.

Appendix VII - SAS 70 Examinations of EBT Service Organizations

- No changes made.

Appendix VIII - Compliance Supplement Core Team

- Updated this appendix to recognize contributions of current interagency team responsible for the production of this Supplement.

Appendix VI
Other OMB Circular A-133 Advisories

This Appendix is reserved.

Appendix VII

SAS 70 Examinations of EBT Service Organizations

Background

States must obtain an examination by an independent auditor of the State electronic benefits transfer (EBT) service providers (service organizations) regarding the issuance, redemption, and settlement of benefits under the Food Stamps program (CFDA 10.551) in accordance with the American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards (SAS) No. 70, Service Organizations. Also, States are required to ensure that the service organization has these examinations performed at least annually, that the examinations cover the entire period since the previous examination period, and that the examination reports are submitted to the State within 90 days after the end of the examination period. The examination report must include a list of all States whose systems operate under the same control environment. The auditor of the service organization is required to issue a report on controls placed in operation and tests of operating effectiveness, which is commonly referred to as a "type 2 report" (7 CFR section 274.12(j)(5), OMB No. 0584-0500).

In performing audits under OMB Circular A-133 of the Food Stamps program, an auditor may use these SAS 70 reports to gain an understanding of internal controls and obtain evidence about the operating effectiveness of controls.

A SAS 70 type 2 report includes a description by the service organization's management of control objectives and related controls as they relate to the services provided, a description by the service organization's auditor of their tests of operating effectiveness and the results of those tests, and an auditor's report. This appendix is intended to assist service organizations and their auditors by describing illustrative control objectives and controls which service organizations may have in place. When such controls are present and operating effectively, they may enable auditors of user organizations to assess control risk below the maximum for financial statement assertions related to EBT transactions. The illustrative control objectives and controls in this appendix may not necessarily reflect how a specific service organization considers and implements internal control. Also, this appendix is not a checklist of required controls. Service organizations controls may be properly designed and operating effectively even though some of the controls included in this appendix are not present. Further, service organizations could have other controls operating effectively that have not been included in this appendix. Service organizations and their auditors will need to exercise judgment in determining the most appropriate and cost effective controls in a given environment or circumstance.

Many of the illustrative controls are stated in relation to the kinds of policies and procedures that are "established" or "in place" at an organization. It would be insufficient for such policies and procedures to merely exist on paper and not be implemented. To meet the criteria of a SAS 70 type 2 examination, the policies and procedures would need to be suitably designed, placed in operation, and operating effectively.

1. Control Environment

Illustrative Control Objective:

Controls provide reasonable assurance that the EBT system functions in a manner consistent with its policies, and complies with applicable laws and regulations (Food Stamp Act of 1977, as amended (7 USC 2016(i)) and 7 CFR section 274.12).

Illustrative Controls:

- The service organization has written policies and procedures for the system processing EBT transactions.
- The organization identifies and analyzes relevant risks to the EBT process.
- Policies and procedures regarding acceptable employee practices, conflicts of interests, and codes of conduct have been established and communicated to employees with EBT responsibilities.
- Policies and procedures are established for performing background investigations of employees prior to employment.
- Policies and procedures have been established to segregate incompatible functions (e.g., application programming, systems and operation, financial duties, data storage, government reimbursement payment requests, transaction processing, and reconciliation) so no individual interacting with the system can exercise unilateral control over EBT transactions.
- Policies and procedures are in place for management to monitor the effectiveness of EBT controls and correct deficiencies or weaknesses when found.
- Policies and procedures are in place to prevent management or staff from overriding controls.

2. Systems Development and Maintenance

Illustrative Control Objective:

Controls provide reasonable assurance that changes (including emergency procedures) to EBT applications and system software are authorized, tested, approved, implemented, and documented.

Illustrative Controls:

- The service organization follows a system development methodology.
- System documentation for new and existing applications are current and complete in accordance with programming and documentation standards used by the service organization.

3. Access Controls

Illustrative Control Objective:

Controls provide reasonable assurance that the EBT system is protected against unauthorized physical and logical access.

Illustrative Controls:

- The responsibility for the development and enforcement of a security policy is at an organizational level that facilitates compliance by service organization personnel and enables enforcement of policies and procedures.
- Security policy and procedures are in place and are communicated to appropriate employees and contractors.
- Policies and procedures are in place for reporting security incidents or observed irregularities to an organizational level where such matters can be investigated and resolved.
- Policies and procedures are established for the security over filing, retention, and destruction of EBT system files.
- Policies and procedures are in place for conducting security system training.
- Policies and procedures are in place for discontinuing an employee or contractor's ability to access EBT hardware, software, and data when the employee is terminated or the employees duties are changed.
- Access to EBT files or processes is limited based upon users' needs.
- Passwords control access to EBT files, personal identification numbers (PIN), and privacy data.
- Firewalls or other procedures prevent unauthorized access to data from an external network.
- Policies and procedures are in place to prevent a State from reviewing or altering data for another State.

4. Computer Operations - Processing

Illustrative Control Objective:

Controls provide reasonable assurance that processing is scheduled and deviations from scheduling are identified and resolved.

5. Computer Operations - Data Transmission

Illustrative Control Objective:

Controls provide reasonable assurance that data transmissions are complete, accurate and secure.

Illustrative Controls:

- Policies and procedures require that PIN's and data are encrypted throughout processing.
- Encryption keys are stored in a secure manner.
- Maintenance of encryption keys is performed by authorized service center staff.
- Policies and procedures of the service organization require proper identification, validation, and acceptance of EBT transactions processed.

6. Computer Operations - Output**Illustrative Control Objective:**

Controls provide reasonable assurance that output data and documents are complete, accurate, and distributed to authorized recipients on a timely basis.

7. EBT Controls - Transactions Received from Authorized Sources**Illustrative Control Objective:**

Controls provide reasonable assurance that transactions are received from authorized sources.

Illustrative Controls:

- Policies and procedures are in place to ensure that updates of point of sale (POS) device parameters are restricted to authorized personnel.
- Policies and procedures require that POS transactions be properly validated.
- Policies and procedures for direct data entry, such as adjustments, require proper review and approval.
- Policies and procedures are in place to approve voucher transactions.
- Policies and procedures for voucher transactions prevent unauthorized access to recipient or retailer accounts.

8. EBT Controls - Transaction Amounts and Recording**Illustrative Control Objective:**

Controls provide reasonable assurance that transactions are for authorized amounts and are recorded completely and accurately.

Illustrative Controls:

- Records identify the activity and events in client accounts (e.g., deposits, withdrawals, charges, and type of transactions).

- Records identify client accounts for which benefits have not been withdrawn or used beyond pre-established periods (i.e., identify inactive accounts for which deposits are still made).
- System edits prevent individual client accounts from being credited with benefits in excess of authorized amounts.

9. EBT Controls - Processing

Illustrative Control Objective:

Controls provide reasonable assurance that transactions are processed completely and accurately.

Illustrative Controls:

- Policies and procedures of the service organization include controls to:
 - monitor and investigate any unsuccessful file transfers;
 - recover or reproduce lost or damaged data;
 - examine edit checks for unusual conditions;
 - reconcile input and output of transactions processed;
 - log and store transactions; and
 - monitor rejected transactions and account adjustment actions.

10. EBT Controls - Settlement

Illustrative Control Objective:

Controls provide reasonable assurance that settlement of funds received from benefit providers and distributed to benefits acquirers for food stamp benefit purchases and withdrawals is performed timely and accurately.

Illustrative Controls:

- Policies and procedures are in place to perform daily reconciliations of:
 - account balances;
 - net settlements; and
 - government funds.
- Policies and procedures are established for resolution of disputed transactions.
- Policies and procedures are established for requesting Federal and State reimbursements.

11. Physical Environment

Illustrative Control Objective:

Controls exist to provide reasonable assurance that physical assets are protected.

Illustrative Controls:

- Policies and procedures are established for environmental controls (e.g., maintenance schedules, fire suppression equipment, water detection and protection considerations, and the availability of an uninterruptable power system designed to protect and ensure continued operations).
- Policies and procedures call for periodic facility inspections.
- Policies and procedures for proper maintenance of hardware have been established.

12. Contingency Planning**Illustrative Control Objective:**

Controls exist within the data center to provide reasonable assurance of continuity of operations.

Illustrative Controls:

- Disaster recovery and business continuity plans exist for the system processing EBT transactions.
- The business continuity plan provides for periodic testing at the backup facility and the service organization has performed such testing.
- The service organization has a contractually protected access right to the backup facility.
- Backup arrangements for key applications, processes and files are in place.

13. Card Controls**Illustrative Control Objective:**

Controls are established to provide reasonable assurance that users of EBT benefit cards are authorized.

Illustrative Controls:

- Each transaction is validated with a unique account number and PIN.
- For benefit card issuance services provided by the EBT service organization policies and procedures are in place to:
 - prevent unauthorized assignment and replacement of PIN's;
 - properly deliver benefit cards to participants;
 - activate cards by only authorized users;
 - deactivate damaged, lost, or stolen cards;
 - record and destroy active cards returned to the service organization; and
 - control access to and inventory levels of pre-printed unused card stock.

Appendix VIII

Compliance Supplement Core Team

The Compliance Supplement Core Team is responsible for the annual production of the Office of Management and Budget (OMB) Circular A-133 Compliance Supplement. It is composed of audit and program representatives from the Federal grant-making agencies, General Accounting Office, and OMB. Leadership is rotated among agencies on an annual basis. Following is a list of team members responsible for the production of this Supplement:

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