

II. GENERAL COMPLIANCE SUPPLEMENT

INTRODUCTION

The objectives of most compliance requirements for DOE programs are generic in nature. For example, most programs have eligibility requirements. While the criteria for determining eligibility vary by program, the objective of the compliance requirement that only eligible entities participate is consistent across all programs.

Rather than repeat these compliance requirements, audit objectives, and suggested audit procedures for each program, they are provided once in this part. For each program in this Compliance Supplement (this Supplement), the program-specific compliance guidance section (Part III of this guidance) 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.

Compliance Requirements, Audit Objectives, and Suggested Audit Procedures

At the end of this General Compliance Supplement is a matrix that outlines the compliance requirements, including special tests and provisions, that are applicable to programs performed under DOE CFDA numbers. (Applicable compliance requirements are designated with a “Yes” in the matrix.) For programs performed under each CFDA number, auditors should audit applicable compliance requirements that are direct and material to the programs.

The audits of programs performed under CFDA number 81.135 should require a special test/provision. Recipients performing projects under CFDA number 81.135 may be reimbursed by DOE for patent application costs of up to \$15,000. When auditing projects performed under CFDA number 81.135, auditors should review documentation on patent application cost reimbursements and determine whether the recipient sought reimbursement beyond the \$15,000 threshold.

CFDA number 81.502 (Miscellaneous Federal Assistance Actions) includes various miscellaneous projects. As such, the applicability of each compliance requirement should depend on the nature and scope of the specific project under audit. For this reason, the compliance requirements matrix includes a footnote indicating auditors should use professional judgment in determining the applicability of each compliance requirement for each project included under CFDA number 81.502.

The suggested audit procedures are provided to assist auditors in planning and performing tests of non-Federal entity compliance with the requirements of DOE Federal awards and programs. Auditor judgment will be necessary to determine whether the suggested audit procedures are sufficient to achieve the stated audit objective and whether 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 awards and programs that are not included in this Supplement. Finally, it simplifies future updates to this Supplement.

The suggested audit procedures for compliance testing may be accomplished using dual-purpose testing.

Internal Control

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.

The suggested audit procedures for internal control testing may be accomplished using dual-purpose testing.

Comment [ec1]: The following was removed at the request of the CFO's office.

~~Improper Payments~~

~~Under OMB budgetary guidance and Public Law (Pub. L.) No. 107-300, DOE is required to review its awards and, as applicable, provide an estimate of improper payments. Improper payments mean:~~

- ~~1.—Any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements, and includes any payment to an ineligible recipient; and~~
- ~~2.—Any payment for an ineligible service, any duplicate payment, any payment for services not received, and any payment that does not account for credit for applicable discounts.~~

American Recovery and Reinvestment Act

The American Recovery and Reinvestment Act (Pub. L. No. 111-5) (ARRA) has significant implications for audits. Auditors should specifically ask auditees about, and be alert to, recipient expenditure of funds provided by ARRA.

A. ACTIVITIES ALLOWED OR UNALLOWED

Compliance Requirements

The specific requirements for activities allowed or unallowed are unique to each DOE Federal award or program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining to the program.

In addition, ARRA has established a cross-cutting unallowable activity for all ARRA-funded awards. Pursuant to Section 1605 of ARRA, none of the funds appropriated or otherwise made available in ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

Source of Governing Requirements

The requirements for activities allowed or unallowed are contained in program legislation or, as applicable, ARRA, DOE regulations, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control.
2. Determine whether DOE Federal awards were expended only for allowable activities.

Suggested Audit Procedures – Internal Control

1. 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 award.
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, perform alternative procedures, 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 award.
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.

B. ALLOWABLE COSTS/COST PRINCIPLES

Compliance Requirements

Entities may only charge allowable costs to DOE Federal awards, and are required to adhere to all relevant cost principles when determining the allowability of costs.

Source of Governing Requirements

Guidance regarding cost principles may be found in Regulation 10 CFR 600.317, which states that the allowability of costs incurred by for-profit organizations is determined in accordance with the for-profit cost principles in 48 CFR part 31 in the Federal Acquisition Regulation (except that patent prosecution costs are not allowable unless specifically authorized in the award document). ~~Guidance regarding cost principles may also be found in the relevant cost accounting standards.~~ The indirect cost rate for the award is agreed upon with the recipient during grant negotiations and should be noted in the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control.
2. Determine whether the agreed upon indirect cost rate for the award, as well as relevant cost accounting standards, are properly applied.

Suggested Audit Procedures – Internal Control

1. 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 award.
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, perform alternative procedures, 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 costs charged to the DOE Federal award, and perform procedures to verify that ~~direct~~ such costs ~~(including indirect costs)~~ were allowable in accordance with the relevant cost principles and award terms and conditions and the indirect cost rate was appropriately applied ~~identified in the terms and conditions of the award.~~

C. CASH MANAGEMENT

Compliance Requirements

When entities are funded on a reimbursement basis, program costs must be incurred before reimbursement is requested from DOE. 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 DOE. Pass-through entities must monitor cash drawdowns by their subrecipients to ensure that subrecipients conform substantially to the same timing and amount standards as the pass-through entity.

Source of Governing Requirements

The requirements for payments and cash management are contained in Regulation 10 CFR 600.312 as well as in the terms and conditions of the award.

Availability of Other Information

Treasury's 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.
2. Determine whether for advance payments the recipient followed procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and their disbursement.
3. Determine whether interest earned on advances was reported/remitted as required.
4. Determine whether an entity has awards funded on a reimbursement payment basis, as well as awards funded through advance payments. For such entities, determine whether program costs are incurred before reimbursement is requested from DOE.

Suggested Audit Procedures – Internal Control

1. 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 award.
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, perform alternative procedures, 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 award. 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 awards collectively rather than separately for each award.

1. For those recipients that received advances of DOE Federal funds, ascertain the procedures established with DOE to minimize the time between the transfer of Federal funds and the disbursement of funds for program purposes.
2. 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.
3. When awards are funded on a reimbursement basis, select a sample of reimbursement requests and trace to supporting documentation showing that the costs for which reimbursement was requested were incurred prior to the date of the reimbursement request.
4. Review records to determine if interest was earned on Federal cash draws. If so, review evidence to ascertain whether it was returned to DOE.

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

D. 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, subject to the conditions listed under 10 CFR 600.321(b)(1)-(3). 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.

Equipment records should be maintained, a physical inventory of equipment should be taken at least once every two years and reconciled to the equipment records, an appropriate control system should be used to safeguard equipment, and equipment should be adequately maintained. When equipment with a current per unit fair market value of \$5000 or more is no longer needed for a DOE program, it may be retained or sold with DOE having a right to a proportionate (percent of DOE participation in the cost of the original project) amount of the current fair market value. Proper sales procedures should be used that provide for competition to the extent practicable and result in the highest possible return.

Source of Governing Requirements – Equipment

The requirements for equipment are contained in Regulation 10 CFR 600.321 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, subject to the conditions listed under 10 CFR 600.321(b)(1)-(3).. Real property should be used for the originally authorized purpose as long as needed for that purpose.

When real property is no longer needed for federally supported programs or projects, the non-Federal entity should request disposition instructions. For purposes of this compliance requirement, the recipient makes the request to DOE. The pass-through entity is required to comply (and to ensure compliance) with the direction of DOE and the terms and conditions of its award. 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 DOE the Federal portion (based on the Federal participation in the project) of net sales proceeds. If the property is retained, the non-Federal entity should normally compensate DOE 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.

~~Source of Governing Requirements—Real Property~~

~~The requirements for real property are contained in Regulation 10 CFR 600.321 and the terms and conditions of the award.~~

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal.
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 DOE was compensated for its share of any property sold or converted to non-Federal use.

Suggested Audit Procedures – Internal Control

1. 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 award.
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, perform alternative procedures, 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. Depreciation of Equipment and Real Property~~

~~a. Verify that the appropriate amount of depreciation cost is charged to DOE awards in accordance with Regulation 48 CFR 9904.409.~~

12. Disposition 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 of \$5000 or more, test whether DOE was reimbursed for the appropriate Federal share.

~~3. Disposition 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 DOE, which will normally require reimbursement to DOE 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.

E. MATCHING, LEVEL OF EFFORT, EARMARKING

Compliance Requirements

The specific requirements for matching, level of effort, and earmarking are unique to each Federal award or program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining 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.

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 DOE.
- Conform to other applicable provisions of the laws, regulations, and provisions of contract or grant agreements applicable to the award or program.

Source of Governing Requirements

The requirements for matching are contained Regulation 10 CFR 600.313 and the terms and conditions of the award. The requirements for level of effort and earmarking are contained in program legislation and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control.

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. 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 award.

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, perform alternative procedures, 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 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 (if available) 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 award; 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 award).

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.

F. PERIOD OF AVAILABILITY OF FEDERAL FUNDS

Compliance Requirements

DOE 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 DOE. Also, if authorized by the Federal award, unobligated balances may be carried over and charged for obligations of a subsequent funding period. Obligations signifies the amounts of orders placed, contracts and subawards, 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.

Non-Federal entities should 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). DOE may extend this deadline upon request.

Source of Governing Requirements

The requirements for period of availability of Federal funds are contained in program legislation (including ARRA, as applicable), and the terms and conditions of the award.

Audit Objective

1. Obtain an understanding of internal control, assess risk, and test internal control.
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. 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 award.
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, perform alternative procedures, 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 transactions charged to the Federal award after the end of the period of availability to verify that the—

- a. underlying obligations occurred within the period of availability, and
- b. liquidation (payment) was made within the allowed time period.

3. Test transactions that were recorded during the period of availability and verify that the underlying obligations occurred within the period of availability.

4. Test adjustments (i.e., manual journal entries) 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.

As long as the auditor obtains sufficient, appropriate evidence to meet the period of availability audit objectives, the auditor may test period of availability using the same test items used to test other types of compliance requirements (e.g., activities allowed or unallowed or allowable costs/cost principles). However, if this approach is used, the auditor should exercise care in designing the sample to ensure that sample items are suitable for testing the stated objectives of compliance requirements covered by the sample.

G. PROCUREMENT AND SUSPENSION AND DEBARMENT

Compliance Requirements

Procurement

Recipients should ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Recipients should conform to applicable Federal law and regulations. All non-Federal entities should follow Federal laws and implementing regulations applicable to procurements.

Under the Buy American provisions (Section 1605 of American Recovery and Reinvestment Act of 2009 (ARRA)), ARRA funds may not be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. This provision is not applicable, however, when the Secretary of Energy finds that:

- (a) application of the provision would be inconsistent with the public interest;
- (b) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (c) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

Source of Governing Requirements - Procurement

The requirements for procurement are contained 10 CFR 600.331, program legislation, Section 1605 of ARRA, 2 CFR part 176, and the terms and conditions of the award (including those required by ARRA).

Suspension and Debarment

The Department of Energy's regulations governing nonprocurement suspension and debarment are codified in at Appendix B to Part D of 10 CFR 600, item 7 – as follows; 2 CFR part 901. This part adopts the Office of Management and Budget (OMB) guidance in subparts A through I of 2 CFR part 180, as supplemented by this part, as the DOE policies and procedures for nonprocurement debarment and suspension.

"7. Debarment and Suspension (E.O.s 12549 and 12689— Contract awards that exceed the simplified acquisition threshold and certain other contract awards must not be made to parties listed on nonprocurement portion of the General Services Administration's Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs in accordance with E.O.s 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235), "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold must provide the required certification regarding its exclusion status and that of its principals."

The simplified acquisition threshold as defined by the Federal Acquisition Regulations (FAR) is currently \$150,000.

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Comment [E2]: Changes in this section are due to response to comment category Y, item 4.

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Non-Federal entities are prohibited from contracting with or making subawards ~~over the simplified purchase threshold under covered transactions~~ to parties that are suspended or debarred or whose principals are suspended or debarred. ~~“Covered transactions” include those procurement contracts for goods and services awarded under a nonprocurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed \$25,000 or meet certain other specified criteria. 2 CFR section 180.220 lists the specified criteria.~~

When a non-federal entity enters into a ~~contract covered transaction~~ with an entity at a lower tier, the non-federal entity must verify that the entity is not suspended or debarred or otherwise excluded. This verification may be accomplished by checking the *Excluded Parties List System (EPLS)* maintained by the General Services Administration (GSA), collecting a certification from the entity, or adding a clause or condition to the ~~award covered transaction~~ with that entity. ~~(2 CFR section 180.300).~~ The information contained in the EPLS is available in ~~printed and electronic~~electronically at 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://epls.arnet.gov>).~~

Source of Governing Requirements – Suspension and Debarment

The Department of Energy’s regulations governing nonprocurement suspension and debarment are codified in ~~Appendix B to Part D of 10 CFR 600, item 7 at 2 CFR part 901. This part adopts the Office of Management and Budget (OMB) guidance in subparts A through I of 2 CFR part 180, as supplemented by this part, as the DOE policies and procedures for nonprocurement debarment and suspension.~~

Comment [E3]: Changes in this section are due to response to comment category Y, item 4.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control.
2. Determine whether procurements were made in compliance with the provisions of 10 CFR 600.331 and other procurement requirements specific to an award.
3. Determine whether an award that provides ARRA funding for construction, alteration, maintenance, or repair of a public building or public work includes a Buy-American award term and, if so, whether the recipient has requested and been granted any waivers.
4. For ~~contracts under nonprocurement instruments, covered transactions,~~ determine whether the non-Federal entity verified that entities are not suspended or debarred or otherwise excluded.

Suggested Audit Procedures – Internal Control

1. 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 award.
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, perform alternative procedures, 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 procurements and subawards and—

a. Test whether the non-Federal entities performed a verification check for covered transactions, by checking the EPLS, collecting a certification from the entity, or adding a clause or condition to the covered transaction with the entity; and

b. Test the sample of procurements and subawards against the EPLS, and ascertain if covered transactions 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.

2. Select a sample of ARRA-funded procurements, if any, for activities subject to Section 1605 of ARRA and test whether the non-Federal entity has —

a. documented that the iron, steel, and manufactured goods used in the project are produced in the United States, or

b. requested and received any waivers of the Buy-American requirements.

H. REPORTING

Compliance Requirements

For purposes of the Supplement, the designation “Not Applicable” in relation to “Financial Reporting,” “Performance Reporting” and “Special Reporting” means that the auditor is not expected to audit anything in these categories other than whether award terms and conditions may require such reporting. **However, for Section 1512 ARRA reporting, “Not Applicable” means the award or program is not subject to Section 1512 reporting; “Applicable” means the award or program, in whole or in part, involves ARRA funding on which recipients awarded such funds must provide the required reports.**

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). Each recipient must report award outlays and program income on a cash or accrual basis, as prescribed by DOE. DOE may accept identical information from the recipient in machine-readable format, computer printouts, or electronic outputs in lieu of the prescribed formats.

The standard financial reporting forms are as follows:

1. *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.
2. *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 are used.
3. *Federal Financial Report (FFR) (SF-425/SF-425A (OMB No. 0348-0061))*. Recipients use the FFR as a standardized format to report the financial status of their Federal awards, as well as, when applicable, cash status (Lines 10.a, 10.b, and 10c). See below for information concerning the transition to the FFR. References to this report include its applicability as both a financial status and a cash report, unless indicated otherwise.

~~4. *Schedule of Expenditures of DOE Federal Awards*. This schedule should provide a breakdown, by cost element, of each DOE Federal award, and should include the DOE award numbers on the schedule.~~

Comment [E4]: Deleted per Comment Category D – this is not a form.

The award terms and conditions will specify the initial reporting period for which use of the SF-425 will be required. Electronic versions of the existing and new standard forms are located on OMB’s Internet home page (http://www.whitehouse.gov/omb/grants_forms).

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’ Program~~

~~Support Center (PSC). After DOE Federal awards a grant, DPM is responsible for processing payments to the recipient; receiving collections for unexpended funds, duplicate payments, and, when applicable, interest earned on Federal funds; and accounting for disbursement information provided by the recipient. Recipients have been reporting data equivalent to the SF 272, *Federal Cash Transactions Report* on PSC equivalent forms. The PSC 272 and 272-A will be superseded by the SF 425 (see above) and, when reporting cash status on multiple awards, the SF 425A. The following information is included for the information of the auditor until PMS has fully transitioned to the use of the SF 425/SF 425A; however, references under III.L.1 to PMS and the PSC series of forms have been deleted.~~

~~Federal awarding agencies enter authorization amounts in PMS to allow recipients to draw Federal funds. There are two methods by which recipients can request funds: (1) the PMS 270 request or (2) SMARTLINK II. SMARTLINK II enables recipients to request Federal funds through a computer link with DPM.~~

Performance Reporting

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

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 DOE 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 award or program.

American Recovery and Reinvestment Act Reporting

Section 1512 of ARRA includes reporting requirements applicable to recipients of awards under ARRA Division A.

The auditor must review the award terms and conditions, including the Reporting Requirements checklist to see what ARRA reporting requirements are contained in the award.

OMB has issued many documents that provide guidance on the reporting requirements under ARRA (located at (http://www.whitehouse.gov/omb/recovery_default)). Among them, M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009* (June 22, 2009), provides relevant information for the audit procedures. The M-09-21 guidance covers the reporting requirements of Section 1512 of ARRA and includes two supplements: (1) a list of awards or programs subject to the ARRA reporting requirements, and (2) a Recipient Reporting Data Model. M-09-21 provides extensive guidance for recipients and Federal agencies. While not a replacement for reading the entire document, the following excerpts highlight essential information:

Section 2.1 What recipient reporting is required in Section 1512 of the Recovery Act?

Section 1512 of the Recovery Act requires reporting on the use of Recovery Act funding by recipients no later than the 10th day after the end of each calendar quarter (beginning the quarter ending September 30, 2009). Aimed at providing transparency into the use of these funds, the recipient reports are required to include the following detailed information:

- Total amount of funds received, and of the amount spent on projects and activities;

- A list of those projects and activities funded by name to include:
 - Description
 - Completion status
 - Estimates on jobs created or retained (using DOE funds);

- Details on sub-awards and other payments.

Section 2.2 Who is required to report under Recovery Act?

The prime recipients of all awards or programs subject to Section 1512 of the Recovery Act are responsible for reporting the information required by Section 1512 of the Act and as provided in this Guidance. Prime recipients may choose to delegate certain reporting requirements to subrecipients, as described in Section 2.3.

The prime recipients are non-Federal entities that receive Recovery Act funding as Federal awards in the form of grants or cooperative agreements directly from the Federal government.

Section 2.3 What are the respective responsibilities of prime recipients and subrecipients in meeting Section 1512 reporting responsibilities?

The prime recipient is ultimately responsible for the reporting of all data required by Section 1512 of the Recovery Act and this Guidance, including the Federal Funding Accountability and Transparency Act (FFATA) data elements for the subrecipients of the prime recipient required under 1512(c)(4). Prime recipients may delegate certain reporting requirements to subrecipients, as described below. If the reporting is delegated to a subrecipient, the

delegation must be made in time for the subrecipient to prepare for the reporting, including registering in the system.

The specific data elements to be reported by prime recipients and subrecipients are included in the data dictionary contained in the *Recipient Reporting Data Model*.

Section 2.5 How will recipient reporting be submitted?

The information reported by all prime recipients (and those subrecipients to which the prime recipient has delegated reporting responsibility) will be submitted through www.FederalReporting.gov, the online Web portal that will collect all Recovery Act recipient reports.

Section 2.11 How will these reports be made available to the public?

All reports submitted pursuant to Section 1512 of the Recovery Act will be made available on www.Recovery.gov.

OMB also issued M-10-14, *Updated Guidance on the American Recovery and Reinvestment Act* (March 22, 2010), which provides information on the continuous corrections period instituted by the Recovery Accountability and Transparency Board (RATB) in January 2010 under which recipients can correct reported data for the immediately preceding reporting quarter after that reporting quarter has ended and after the data has been published on FederalReporting.gov. The ending date for the continuous corrections period may vary, and auditors should inquire of the entity to determine the ending date for the quarter subject to auditing procedures.

Compliance testing of the ARRA reporting requirements should include only the following key data elements of the 1512 reporting:

<i>Recipient Data Elements</i>	<i>Definition from M-09-21 Recipient Data Reporting Model v3.0 (June 22, 2009 as updated for the quarter ending 12/31/09)</i>
Award Number	The identifying number assigned by the Department of Energy, such as the federal grant number, or federal contract number.
Award Amount	For Financial Assistance Awards Grants: The total amount of DOE Federal dollars on the award. For Federally Awarded Contracts: The total amount obligated by the Department of Energy.

<p>Total Federal Amount ARRA Funds Received/Invoiced¹</p>	<p>For Financial Assistance Awards Grants: The amount of Recovery Acts funds received through draw-down, reimbursement or invoice. For Federally Awarded Contracts: The amount of Recovery Act funds invoiced by the federal contractor (cumulative).</p>
<p>Total Federal Amount of ARRA Expenditures²</p>	<p>This is for Financial Assistance Awards grants only and amounts to the cumulative total of the amount of Recovery Act funds that were expended for projects or activities (“Federal Share of Expenditures”). For reports prepared on a cash basis, expenditures are the sum of cash disbursements for direct charges for property and services, the amount of indirect expense charged, the value of third-party in-kind contributions applied, and the amount of cash advance payments and payments made to subcontractors and subawardees. For reports prepared on an accrual basis, expenditures are the sum of cash disbursements for direct charges for property and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase or decrease in the amounts owed by the recipient for (1) goods and other property received; (2) services performed by employees, contractors, subcontractors, subawardees, and other payees; and (3) programs for which no current services or performance are required. Do not include program income expended.</p>

Note: While the “number of jobs” is a required data element on the Section 1512 reports, the auditor is not required to test the “number of jobs” as part of the compliance work performed on Section 1512 ARRA reporting.

¹ The Department of Energy is permitted to post and distribute its own guidance for recipient reporting of this data element provided that the program-specific guidance does not conflict (in whole or in part) with OMB guidance. The agency’s guidance should be available on Recovery.gov at:

<http://www.recovery.gov/FAQ/QuickLinks/Pages/AgencyRecoverySites.aspx>

² See footnote 1.

Source of Governing Requirements

Reporting requirements are contained in program legislation, ARRA ~~(and the previously listed OMB documents and future additional OMB guidance documents that may be issued)~~, 10 CFR 600.341 and 10 CFR 600.342, and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control.
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 governing requirements.

Suggested Audit Procedures – Internal Control

1. 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 award.
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, perform alternative procedures, 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

Financial, performance, and special reports

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 SF-425A and SF-425. , regardless of the source of the data included in the PMS reports. Although certain data is supplied by DOE (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 ~~financial assistance contract or grant~~ agreements pertaining to the award for reporting requirements. Determine the types and frequency of required reports. Obtain and review DOE 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 (if available) 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 are complete and accurate, were prepared in accordance with the required accounting basis, and were submitted in a timely manner to DOE.

(2) Trace the amounts reported to accounting records that support the audited financial statements (if available) and the Schedule of Expenditures of **DOE** -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. If reports require information on an accrual basis and the entity does not prepare its accounting records on an accrual basis, determine whether the reported information is supported by available documentation.

(3) For any discrepancies noted in SF-425 reports, review subsequent SF-425 reports to ascertain if the discrepancies were appropriately resolved. ~~with HHS' DPM.~~

b. Performance and special reports

(1) Trace the reported data to records that accumulate and summarize data.

(2) Perform tests of the underlying data to verify that the data was 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.

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4. Test the selected reports for accuracy and 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, 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.

c. For each type of report—

(1) 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.

(2) Test mathematical accuracy of reports and supporting worksheets.

5. Obtain written representation from management that the reports provided to the auditor are true copies of the reports submitted or electronically transmitted to DOE. ~~or HHS' DPM for recipients using the Payment Management System.~~

ARRA Section 1512 Reports (See the chart beginning on Page 31 of this guidance for a listing of the relevant data elements.)

6. Review ~~award terms and conditions M-09-021 and other relevant guidance issued by OMB since May 2010~~ for reporting requirements. Determine the methodology used in compiling and reporting the key data elements and ascertain whether the entity passed-through funding to any subrecipients.

7. For awards received as a recipient, select the ARRA Section 1512 report for the calendar quarter preceding the entity's year-end, or for a program with multiple awards (i.e. R&D), select a sample of ARRA Section 1512 reports for the calendar quarter preceding the entity's year-end. ~~For example, the calendar quarter preceding an April 30, May 30, or June 30 entity fiscal year end would be the quarter ending March 31.~~

8. For each selected report, inquire of the entity as to whether it considers the report available on Recovery.gov to be its final submission. (The auditor should only test final submissions.) Find the award on Recovery.gov using the following link₃:

<http://www.recovery.gov/Pages/TextViewProjSummary.aspx?data=recipientAwardsList&RenderData=ALL&State=ALL&Agency=ALL&Amount=ALL&AwardType=CGL> and search by award number.

3 The following steps provide guidance to assist the auditor in locating the award. (Note that the website may have been modified since May 2010).

- Select "Where Is Money Going" tab

- Select "Recipient Reported Data" from the drop-down menu

- Scroll down to the center of the page; find the Recipient Reported Data Search section

- Click on "Go" (do not enter the name of the Agency, State/Territory or the amount) to be taken to the "Advanced Recipient Reported Data Search"

9. For awards received as a recipient

(a) Trace the key data elements to records that accumulate and summarize data to verify that the data elements were presented in accordance with ARRA Section 1512 reporting requirements.

(b) Perform tests of the underlying data to verify that the data was presented in accordance with the required or stated criteria and methodology, including the accuracy and completeness of the reports.

(1) When intervening computations or calculations are required between the records and the data elements, trace reported data elements to supporting worksheets or other documentation that link reports to the data.

(2) Test mathematical accuracy of supporting worksheets.

(c) If entity passed-through funding under the award to any subrecipients, ascertain if the pass-through entity had a process to monitor the accuracy of subrecipient reporting, regardless of whether the reporting has been delegated to the subrecipient.

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

I. SUBRECIPIENT MONITORING

NOTE: Transfers of Federal awards to another component of the same auditee do not constitute a subrecipient or vendor relationship.

Compliance Requirements

A pass-through entity is responsible for:

~~*Award Identification* – At the time of the award, identifying to the subrecipient the Federal award information (i.e., CFDA title and number, award name and number, if the award is research and development, and name of Federal awarding agency) and applicable compliance requirements.~~

- *During-the-Award Monitoring* – Monitoring the subrecipient’s use of Federal awards through reporting, site visits, regular contact, or other means to provide reasonable assurance that the subrecipient administers Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

- *Pass-Through Entity Impact* – Evaluating the impact of subrecipient activities on the pass-through entity’s ability to comply with applicable Federal regulations.

- *Central Contractor Registration* – Identifying to first-tier subrecipients the requirement to register in the Central Contractor Registration, including obtaining a Dun and Bradstreet Data Universal Numbering System (DUNS) number, and maintaining the currency of that information (Section 1512(h) of ARRA, and 2 CFR section 176.50(c)).

During-the-Award Monitoring

Following are examples of factors that may affect the nature, timing, and extent of during-the-award monitoring:

- *Program complexity* – Programs with complex compliance requirements have a higher risk of non-compliance.

- *Percentage passed through* – The larger the percentage of program awards passed through, the greater the need for subrecipient monitoring.

- *Amount of awards* – Larger dollar awards are of greater risk.

- *Subrecipient risk* – Subrecipients may be evaluated as higher risk or lower risk to determine the need for closer monitoring. Generally, new subrecipients would require closer monitoring. For existing subrecipients, based on results of during-the-award monitoring, a subrecipient may warrant closer monitoring under certain circumstances (e.g., the subrecipient has (1) a history of non-compliance as either a recipient or subrecipient, (2) new personnel, or (3) new or substantially changed systems).

Monitoring activities normally occur throughout the year and may take various forms, such as:

- *Reporting* – Reviewing financial and performance reports submitted by the subrecipient.

- *Site Visits* – Performing site visits at the subrecipient to review financial and programmatic records and observe operations.

- *Regular Contact* – Regular contacts with subrecipients and appropriate inquiries concerning program activities.

Agreed-upon procedures engagements

A pass-through entity may arrange for agreed-upon procedures engagements for certain aspects of subrecipient activities, such as eligibility determinations. Since the pass-through entity determines the procedures to be used and compliance areas to be tested, these agreed-upon procedures engagements enable the pass-through entity to target the coverage to areas of greatest risk.

Source of Governing Requirements

Recipients are responsible for ensuring subrecipients comply with all requirements associated with financial assistance that are applicable to recipients. Additional requirements for subrecipient monitoring are contained in program legislation, Section 1512(h) of ARRA, 2 CFR section 176.50(c), and the terms and conditions of the award.

Audit Objectives

1. Obtain an understanding of internal control, assess risk, and test internal control.
2. Determine whether the pass-through entity properly identified **Federal award information and compliance requirements** to the subrecipient, and approved only allowable activities in the award documents.
3. ~~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. **Evaluate the adequacy of and the subrecipient's compliance with its purchasing systems internal controls. This requires the auditor to review the pass-through entities procedures in assessing the adequacy of their review of the subrecipient's purchasing policies and procedures, whether their policies have been implemented, and if they are working effectively.**
4. Determine whether the pass-through entity evaluates the impact of subrecipient activities on the pass-through entity.
5. Determine whether the pass-through entity reviewed whether subrecipients receiving ARRA funding have current CCR registrations and performed periodic checks to ensure that subrecipients are updating information, as necessary.
6. If for-profit subawards are material, determine the adequacy of the pass-through entity's monitoring procedures for those subawards.

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Suggested Audit Procedures – Internal Control

1. 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 award.
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, perform alternative procedures, 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 reporting submitted by subrecipients), and Procurement (tests of ensuring that a subrecipient is not suspended or debarred) with the testing of Subrecipient Monitoring.)

1. Gain an understanding of the pass-through entity's subrecipient procedures through a review of the pass-through entity's subrecipient monitoring policies and procedures (e.g., annual monitoring plan) and discussions with staff. This should include an understanding of the scope, frequency, and timeliness of monitoring activities and the number, size, and complexity of awards to subrecipients, including, as applicable, subawards to for-profit entities.
2. Test the pass-through entity's subaward review and approval documents to determine whether, before award, the pass-through entity checked CCR to determine whether subrecipients were registered.
3. Test award documents and agreements to ascertain if: (a) at the time of award the pass-through entity made subrecipients aware of the award information (i.e., CFDA title and number, award name and number, if the award is research and development, and name of Federal awarding agency) and requirements imposed by laws, regulations, and the provisions of contract or grant agreements; and (b) the activities approved in the award documents were allowable. (See Special Tests and Provisions for additional requirements for programs with expenditures of ARRA awards.)
4. Review the pass-through entity's documentation of during-the-award monitoring to ascertain if the pass-through entity's monitoring provided reasonable assurance that subrecipients used Federal awards for authorized purposes, complied with laws, regulations, and the provisions of contracts and grant agreements, and achieved performance goals.
5. Review the pass-through entity's follow-up to ensure corrective action on deficiencies noted in during-the-award monitoring.
6. Verify that the effects of subrecipient noncompliance are properly reflected in the pass-through entity's records.

7. Verify that the pass-through entity monitored the activities of subrecipients using techniques such as those discussed in the “Compliance Requirements” provisions of this section.

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

J. SPECIAL TESTS AND PROVISIONS

Compliance Requirements

The specific requirements for Special Tests and Provisions are unique to each Federal award or program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining to the award. The auditor should review the award'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 an award. The auditor should also inquire of the non-Federal entity to help identify and understand any Special Tests and Provisions.

Additionally, the auditor should 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 an award. 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 award. Any such requirements which may have a direct and material effect on an award should be included in the audit.

The audits of programs performed under CFDA number 81.135 should require a special test/provision. Recipients performing projects under CFDA number 81.135 may be reimbursed by DOE for patent application costs of up to \$15,000. When auditing projects performed under CFDA number 81.135, auditors should review documentation on patent application cost reimbursements and determine whether the recipient sought reimbursement beyond the \$15,000 threshold.

Internal Control

The following audit objective and suggested audit procedures should be considered in tests of special tests and provisions:

Audit Objective

Obtain an understanding of internal control, assess risk, and test internal control.

Suggested Audit Procedures

1. 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 award.
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, perform alternative procedures, 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.