

Chapter 50 – Federal Compliance

50.30 Compliance with Federal Single Audit Act

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50.30 Compliance with Federal Single Audit Act

50.30.10 The purpose of these policies

This section contains the policies, regulations and procedures regarding compliance with the Federal Single Audit Act, as amended, and the Office of Management and Budget's (OMB) Uniform Guidance.

Under provisions of the Single Audit Act, as amended, the State of Maine has opted to obtain a statewide Single Audit to meet the basic federal audit requirements for all federal assistance awards administered or expended by agencies or institutions of the State. The Single Audit Act and OMB's Uniform Guidance establish various requirements for state agencies and institutions administering federal assistance that are included in this section.

50.30.15 Authority for these policies

This section is issued, as revised, pursuant to the authority granted to the Office of the State Controller: "Develop a financial management and accounting practices manual for the purpose of promulgating system wide uniform financial management practices for state agencies. The manual must be updated on an annual basis;" [Title 5, Section 1541-A]

50.30.20 Applicability

This part is applicable and binding on all agencies of the State of Maine receiving, administering or expending federal assistance, unless otherwise exempted by federal or state law.

Agencies may request a waiver in writing that documents in detail the specific reasons that prevent the agency from complying with specific requirements of this chapter. Refer to Subsection 1.10.40 for information on how to request a waiver.

50.30.25**About the revised Single Audit Act requirements**

In 1984, Congress passed the Single Audit Act, which required most governmental recipients of federal assistance (e.g., state and local governments) to have organization-wide financial and compliance audits on an annual basis. In 1996, responding to suggestions of numerous groups, Congress amended the Single Audit Act significantly. Additional changes were made in 2003 when OMB published amendments to Circular A-133.

In 2013, the federal Office of Management and Budget (OMB) made effective the standards set forth in the Uniform Guidance (2 CFR 200).

- The dollar threshold for requirement of a single audit was increased to \$750,000 or more in expenditures in an entity's fiscal year.
- The Uniform Guidance was drawn from OMB Circulars A-21, A-87, A-110 and A-122 (which have been placed in past OMB guidances); A-89, A-102 and A-133; and the guidance in Circular A-50 on Single Audit Act follow-up

50.30.30**Definitions relating to the Single Audit process**

Following are common definitions utilized in state and federal policies relating to the Single Audit process:

CFDA Number - The five-digit number assigned to a federal assistance program in the federal *Catalog of Federal Domestic Assistance* or, in the absence of a catalog defined number, the number defined by instructions from the federal audit clearinghouse.

Cluster of Programs - A grouping of closely related programs that share common compliance requirements. Refer to Subsection 95.20.20.a. (3) for a definition and description of program clusters presently used by the State of Maine and its agencies and institutions.

Cognizant Agency for Audit - The federal agency designated to carry out coordinating audit responsibilities identified in the Uniform Guidance. Normally would be the primary awarding agency unless otherwise designated by OMB. Health & Human Services is the cognizant federal agency for the State of Maine Single Audit.

Cognizant State Agency - A state agency that is responsible for implementing single audit requirements and coordinating audit follow-up for a particular grantee by virtue of providing the majority of federal assistance. In the event a state agency does not assume cognizant state agency responsibility, it is then the responsibility of each individual state grantor agency to implement and coordinate audit follow-up of single audit requirements. Agencies granting less than \$750,000 must report to the Office of the State Controller's Financial Reporting Division by June 30th of each fiscal year the amounts granted to each subrecipient and/or vendor so that we may coordinate amongst state agencies, where appropriate.

Compliance Supplement - Refers to the Uniform Guidance, 2 CFR 200 Appendix XI. The Compliance Supplement (Supplement) is based on the requirements of the 1996 Amendments and 2 CFR part 200, subpart F, which provide for the issuance of a compliance supplement to assist auditors in performing the required audits.

Corrective Action Plan - A plan of actions taken by an auditee that:

- Corrects identified deficiencies developed during a single or program audit;
- Produces recommended improvements; or
- Demonstrates that audit findings are either invalid or do not warrant auditee action.

A corrective action plan includes the timetable for action and the identification of individuals responsible for seeing corrective action takes place.

Federal Award - Federal financial assistance and federal cost-reimbursement contracts that nonfederal entities receive directly from federal awarding agencies or indirectly from pass-through entities. A procurement contract used to buy goods or services from a vendor is not considered a Federal Award.

Federal Financial Assistance - Assistance that nonfederal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations or other assistance. It does not include amounts received for provision of vendor services to federal agencies or reimbursement for services rendered directly to individuals.

Federal Program - All federal awards to a nonfederal entity assigned a single number in the CFDA. When no CFDA number is assigned, State of Maine agencies and institutions are to report federal assistance activity per Subsection 95.10.40.c.

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

- Effectiveness and efficiency of operation;
- Reliability of financial reporting; and
- Compliance with applicable laws and regulations.

Local Government - Any unit of local government within a state including a county, municipality, city, town, township, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

Major Program - A federal program determined by the auditor to be a major program in accordance with provisions in the Uniform Guidance or a federal program identified as major by a federal agency or pass-through entity in accordance with provisions in the Uniform Guidance.

Management Decision - The evaluation by a federal awarding agency or pass-through entity of the audit findings and related corrective action plans and the issuance of a written decision as to what corrective action is necessary.

Nonfederal Entity - A state (as defined in the Uniform Guidance), local government, Indian tribe, institution of higher education or nonprofit organization.

Nonprofit Organization - Any corporation, trust, association, cooperative or other organization that:

- Is operated primarily for scientific, educational, service, charitable or similar purposes in the public interest;
- Is not organized primarily for profit; and
- Uses its net proceeds to maintain, improve, or expand its operations.

The term nonprofit organization includes nonprofit institutions of higher education and hospitals.

Pass-Through Entity - A nonfederal entity that provides a federal award to a subrecipient to carry out a federal program.

Reporting Package - As defined in the Uniform Guidance includes:

- Entity's financial statements and schedule of expenditures of federal awards,
- Summary schedule of prior audit findings as discussed in the Uniform Guidance,
- Auditor's reports as outlined in the Uniform Guidance, and
- Corrective action plan as discussed in the Uniform Guidance.

Research and Development - All research activities, both basic and applied, and all development activities that are performed by a nonfederal entity.

- **Research** is a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. It also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.
- **Development** is the systematic use of knowledge and understanding gained from research directed to the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

Single Audit - A financial, internal control, and compliance audit of a nonfederal entity administering federal assistance awards including the financial statements of the entity.

Subrecipient - A nonfederal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program.

Vendor - A dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a federal program.

50.30.35**Office of the State Controller responsibilities**

1. Prescribe statewide policies and procedures to ensure that agencies and institutions of the State, administering or expending federal assistance, meet the requirements of the Single Audit Act and Uniform Guidance.
2. Act as the auditee for the statewide Single Audit of Maine.
3. Collect the necessary information and prepare the annual Schedule of Expenditures of Federal Awards.
4. Prepare and publish the annual State of Maine Comprehensive Annual Financial Report.
5. Establish and maintain an audit tracking system to provide information on the resolution of all findings contained in audits of state agencies and institutions.

50.30.45**Responsibilities of State agencies/institutions administering or expending federal awards**

1. Develop internal policies in accordance with this policy and the requirements of the Act and the Uniform Guidance.
2. Identify, account for, and report all expenditures of federal awards in accordance with laws, regulations, contract and grant agreements, and requirements included in this and other sections of the OSC, *State Administrative and Accounting* manual.
3. Provide year-end, certified, federal financial data per requirements included in Chapter 95 of this manual.
4. Prepare a corrective action plan, in the format specified in Subsection 20.50.30, to address each agency audit finding and forward such plan(s) to the Internal Audit Division of the Office of the State Controller within the timeframe set forth during the finding's official communication (usually two weeks).
5. If acting as a pass-through entity, refer to Subsection 50.30.50 for list of responsibilities.

50.30.50**Pass-through entity responsibilities**

1. Properly identify federal awards by informing each subrecipient of the CFDA title and number, award name and number, award year, if the award is R & D, and name of the federal agency;
2. Advise subrecipients of requirements imposed on them by federal laws, regulations, and the provisions of contract and grants agreements as well as any supplemental requirements imposed by the pass-through entity;
3. Monitor the activities of subrecipients as necessary to ensure that federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grants agreements and that performance goals are met;
4. Require subrecipients to provide an annual inventory of federal awards sufficient to allow the pass-through entity to determine whether a single audit is required. The inventory can also be used for determining cognizant state agency, if applicable;
5. Ensure that subrecipients expending \$750,000 or more in federal awards during the subrecipient's fiscal year have met the audit requirements of the Uniform Guidance;
6. Issue a management decision on audit findings within three months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action;
7. Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records;
8. Require each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary to comply with the Uniform Guidance; and

50.30.55**Pass-through entities must monitor subrecipients**

Subrecipient monitoring is the processes and procedures undertaken by a pass-through entity as necessary to ensure that subrecipients are complying with applicable laws, regulations, contract or grant agreement provisions, and that performance goals are being achieved. As part of ensuring legal

requirements are met, it also includes processes and procedures to verify that applicable audit requirements are satisfied and audit findings are reviewed for timely corrective action.

Factors such as the size of awards, the percentage of total program funds awarded to subrecipients and the complexity of compliance requirements influence the nature and extent of appropriate monitoring procedures. Forms of monitoring activities include:

1. Pre-award assessments of subrecipient financial and program capabilities;
2. Require and collect written certification from subrecipients that required information on federal awards has been provided and that the subrecipient understands and agrees to comply with applicable laws, regulations, contract and grant agreement provisions and other requirements imposed by the pass-through entity;
3. Document reviews of subrecipient financial and programmatic reports;
4. Perform site visits to subrecipients to review financial and programmatic records as well as observe operations;
5. Perform limited scope audits. Limited scope audits are defined as agreed-upon procedures engagements conducted in accordance with the American Institute of Certified Public Accountants' (AICPA's) generally accepted auditing standards (GAAS) and attestation standards, that are paid for and arranged by a pass-through entity and address one or more of the following types of compliance requirements:
 - Activities allowed or unallowed;
 - Allowable costs/cost principles;
 - Eligibility;
 - Matching, level of effort, earmarking; and/or
 - Reporting.
6. Arrange for documented reviews of specific subrecipient activity based on risk assessment or significant compliance requirements. An example might be client eligibility determination;
7. Review and follow-up on subrecipient single audits; and

8. Use various checklists to document activities such as the review and follow-up on subrecipient audits or the receipt of required reports and documents prior to closure of contracts or grant agreements.

50.30.60 **Pass-through entities must determine subrecipient (subgrantee) vs. vendor (contractor) determinations**

One of the more challenging tasks facing State agencies/institutions, acting as grantees and/or pass-through entities for federal assistance, is determining when federal program awards retain their identity as federal financial assistance. The distinction is important because federal financial assistance is subject to federal compliance requirements including federal audit requirements. If federal funds “lose” their federal financial assistance identity, the federal restrictions or requirements are generally no longer in effect. Federal funds typically lose their identity through expenditure (i.e., the funds are spent procuring goods or services from a vendor). Merely passing along federal funds to a subrecipient through a subgrant does not alter the federal assistance or award identity.

Uniform Guidance, §200.501 (f), states, “Federal awards expended as a recipient or subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not federal awards.” §200.330 also provides a list of characteristics indicative of federal awards received as a subrecipient and a separate list of characteristics indicative of payments received by a contractor for providing goods or services. Listed below are some other factors that can be used to distinguish between subrecipient and vendor relationships:

- **Solicitation and Competition** - Generally government rules and regulations mandate maximum free and open competition for award of procurement contracts. There are no similar government-wide requirements for competitive awards of subgrants.
- **Number of Awards** - A purchaser usually picks only one vendor to provide needed goods or an identifiable scope of services. On the other hand, organizations awarding assistance (subgrants) generally make multiple awards until funds are exhausted.
- **Criteria for Selection** - Agencies awarding assistance generally place the ability to demonstrate need for funds above most other factors. Agencies awarding vendor contracts usually identify factors showing capability to deliver as most important.

- **Statement of Work/Scope of Services/Project Objectives** – In a vendor procurement, the specification or scope of work is defined by the awarding agency, i.e., the awarding agency identifies what it is buying. In an assistance or subgrant situation, the potential subrecipient generally identifies the program details of the activity for which it is seeking support.
- **Timing of Payment** - Federal assistance payments are usually made before or at the time work is performed. Vendor payments are generally made after performance or at intervals of progress toward identified deliverables.
- **Pricing of the Agreement** - Grantees and subgrantees generally operate on the premise that the ultimate settlement of the agreement will be on the basis of incurred allowable costs. No increment above cost is either intended or allowed. Vendors, regardless of type, are paid increments above costs (profit) usually in exchange for the risk they assume in competing with others to offer the needed goods or services.
- **Special Conditions** - Grantees are permitted to impose “high risk” conditions on subgrantees. These are normally imposed on a case-by-case basis. In such cases, the subgrantee must be told about special conditions being imposed, the corrective actions needed to have them removed and the method of appealing the decision to impose, if such exists. Procurement contractors/vendors have no such protections. Because the grantee is buying the goods or services, it has the right to impose whatever terms deemed appropriate as long as they are mutually accepted at the time of the award.
- **Award Cost Participation** - Often, matching or cost sharing requirements are passed through to subrecipients, who are responsible for helping the grantee meet matching requirements. While technically possible, cost sharing would be unlikely in vendor agreements.
- **Award Risk** - Generally, assistance awards are treated as so-called “best effort” awards. That is, the grantee or subgrantee assumes little risk if performance does not meet goals. This is recognition that assistance is often rendered to try to solve intractable problems that may not respond. Procurement contracts, particularly fixed-price contracts place much of the risk of achieving the objective or guaranteeing performance on the contractor or vendor.

- **Treatment of Property Purchased with Award Monies** - In assistance awards, if a grantee permits the subrecipient to purchase real property, equipment and significant inventories of supplies with federal funds, the grantee typically retains a residual interest in the property, enabling it to recover the property or money associated with its sale price at fair market value. Although technically possible, such arrangements are not normally found in vendor contracts.
- **Public Policy Requirements** - Frequently, Congress has imposed various civil rights, environmental and work-place requirements on the expenditure of federal funds. The so-called “boiler-plate” language of an agreement may provide further evidence of whether an award is being treated as assistance (subgrant) or procurement (vendor). Policies dealing with assistance are usually drawn from the standard Statement of Assurances that accompany federal grant applications (Standard Form 424B for non-construction programs, Standard Form 424D for construction programs). For procurements under grants, the additional public policy provisions are identified in 2 CFR 200 Appendix II.
- **Termination** - Typically, an awarding agency hires help in a procurement contract, but provides help in an award of federal financial assistance. As such, procurement contracts can generally be terminated at the convenience of the awarding agency as well as for the vendor’s non-performance or violation of terms and conditions. Subgrants can only be terminated by the awarding agency for cause - which is for a material violation of the terms and conditions of the award. The subgrantee normally can terminate an award agreement unilaterally or the awarding agency and the subgrantee can mutually agree to do so.

50.30.65 Basis of accounting to use with federal grant and entitlement transactions

The fund type of the account in which the grant or entitlement transactions are recorded determines the basis of accounting. Transactions for governmental fund type accounts are recorded using the modified accrual basis. Proprietary and trust fund type accounts use the accrual basis.

50.30.70 How to recognize revenue**50.30.70.a Governmental Fund Type Accounts**

For financial reporting purposes, grants or entitlement revenue recorded in governmental fund type accounts is recognized as revenue in the accounting period when it becomes susceptible to accrual, that is, both measurable and available. In applying this definition, carefully review legal, contractual, and accounting policy requirements for guidance. For budgetary purposes grant or entitlement revenue recorded in governmental fund type accounts is generally recognized at the time of receipt.

- Entitlements are recorded as revenue at the time of receipt or earlier if the accrual criteria is met. Entitlements are restricted more in form than in substance. Generally, only a failure on the part of the recipient to comply with prescribed regulations will cause a forfeiture of the resources.
- Grant revenue is recognized when the related expenditure is made. If cost sharing or matching requirements exist, revenue recognition depends upon compliance with these requirements.

50.30.70.b Proprietary and Trust Fund Type Accounts

Grant or entitlement revenues received by propriety and trust fund type accounts for operating purposes, or which may be utilized for either operations or capital acquisitions at the discretion of the recipient agency, are recognized as revenues in the accounting period in which they are earned and become measurable (accrual basis). Grants restricted for the acquisition or construction of capital assets are recorded as contributed capital.

50.30.70.c Deferred Revenue

Receipts from federal grant and entitlement awards received before the applicable revenue recognition criteria is met are to be recorded as deferred revenue and, subsequently, recorded as revenue when the criteria are met.

50.30.75 Use the CFDA number to record federal activity

50.30.75.a Record federal assistance program revenues and expenditures/expenses by the unique code assigned each federal financial assistance program in the Catalog of Federal Domestic Assistance (CFDA) or, in the absence of a catalog defined number, the number defined by instructions from the federal audit clearinghouse.

Preferably, this is to be done as an integral part of the agency's grant accounting system to enable the system to produce reports by catalog number. However, this may be accomplished by maintaining a crosswalk of account numbers to catalog numbers.

50.30.75.b When catalog numbers have not been provided in the federal grant contract and cannot reasonably be determined by other means, agencies should identify federal programs with a number consisting of the two-digit federal agency number and a three-digit federal program of 999 "Other Federal Assistance."

50.30.80 Accounting for federal assistance activity between state agencies

Unless directed otherwise by federal law, regulation or federal awarding agency directive, record federal revenue and expenditure/expense activity between state agencies or institutions such that the activity is not duplicated either for accounting or reporting purposes.

50.30.85 Accounting for expenditures of nonfinancial federal awards**50.30.85.a Donated Inventory Programs**

Agencies of the State of Maine receive federal nonfinancial assistance in the form of donated inventories (primarily food commodities and disease immunization supplies). Such assistance may be received directly from a federal agency or indirectly from a custodial state agency.

Record donated inventories as consumable inventories in accordance with State agencies must report the fair value of inventory consumed during the year on Exhibit 1 of the SEFA Reporting Package. State agencies having

inventories of federally provided commodities for distribution to other agencies or locations will not report these commodities as revenue but as consumable inventories offset by deferred revenue. Record distribution by the custodial agency to the consuming agency as a reduction of inventory by the custodial agency (no expenditure/expense). The state agency actually using the commodities reports the nonfinancial revenue and the associated nonfinancial expenditure/expense in their accounting records and on their year-end SEFA.

For food commodities use the commodity list prepared by the Food and Nutrition Service of the U.S. Department of Agriculture to determine the fair value of the nonfinancial assistance.

Record federal food donations as consumable inventories in accordance with State agencies must report the fair value of inventory consumed during the year on their SEFA report. State agencies having inventories of foods for distribution to other agencies or locations will not report these commodities as revenue but as consumable inventories offset by deferred revenue. The state agency actually using the commodities reports the nonfinancial revenue and the associated nonfinancial expenditure/expense in their accounting records and on their SEFA report. Use the commodity list prepared by the Food and Nutrition Service of the U.S. Department of Agriculture to determine the fair value of the nonfinancial assistance.

50.30.85.b

Food Stamp Program

Record federal food stamp distribution and report it on the SEFA Report utilizing the appropriate CFDA program number.

50.30.85.c

Federal Surplus Property

Do not record the value of federal surplus property received by a state agency or institution in the official state financial accounting records. Maintain the property in appropriate subsidiary ledgers for proper control of the assets. Report federal surplus property on the SEFA report under the applicable CFDA program number. It shall be valued at fair market value at the time of receipt or the assessed value provided by the federal agency donating the property.

50.30.90 Accounting for federal assistance received from another nonfederal entity, other than another State of Maine agency/institution (pass-through)

Record identified federal assistance received indirectly from another state (e.g. Vermont) or local government and/or private entity as federal pass-through revenue. There are additional year-end financial reporting requirements specific to federal pass-through revenue and expenditures.